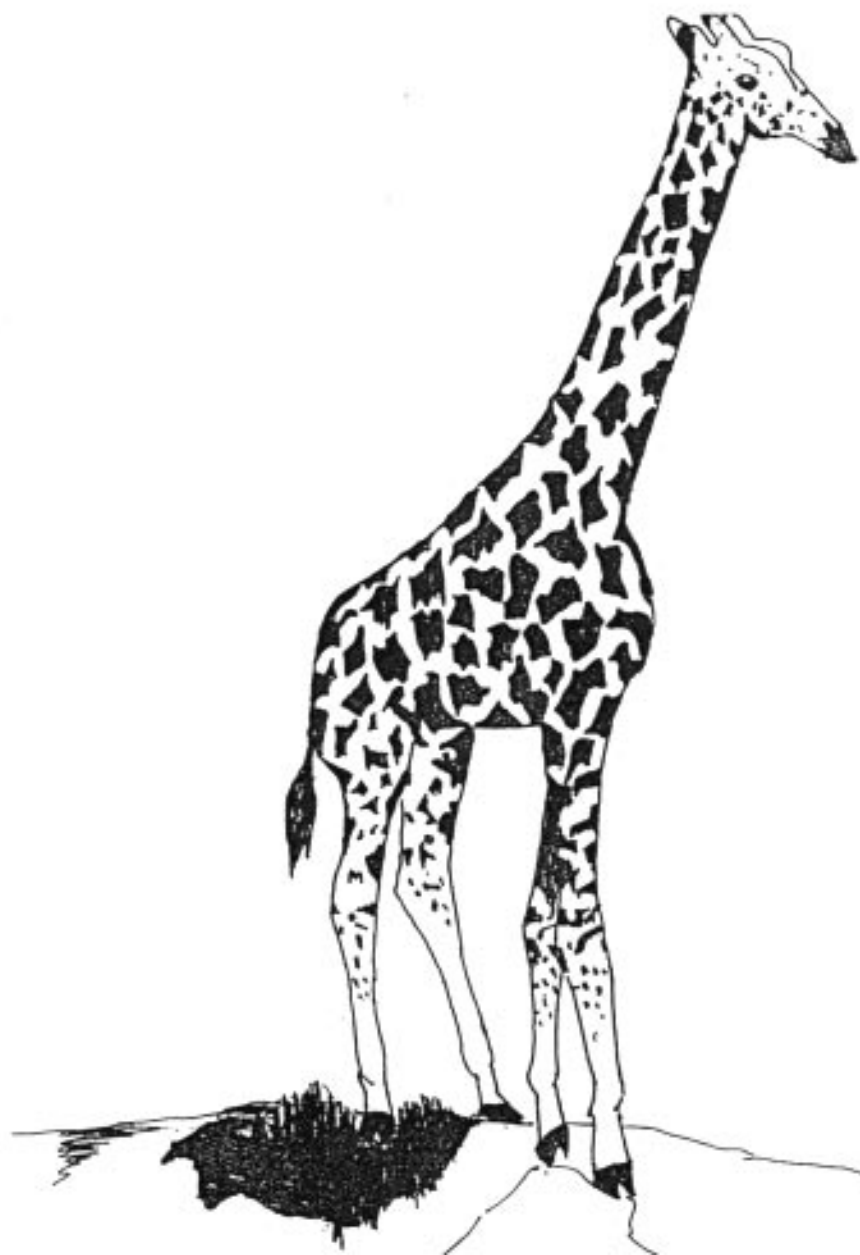


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8th grade

Haltom Middle School, Birdville ISD

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Office of the Secretary of State
P.O. Box 13824
Austin, TX 78711-3824
(800) 226-7199
(512) 463-5561
FAX (512) 463-5569

Secretary of State - Antonio O. Garza, Jr.
Director - Dan Procter
Assistant Director - Dee Wright

Receptionist - Liz Stern

Circulation/Marketing
Jill S. Ledbetter

Texas Administrative Code
Dana Blanton
Daneane Jarzombek

Texas Register
Carla Carter
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PROPOSED RULES

Before an agency may permanently adopt a new or amended section or repeal an existing section, a proposal detailing the action must be published in the *Texas Register* at least 30 days before action is taken. The 30-day time period gives interested persons an opportunity to review and make oral or written comments on the section. Also, in the case of substantive action, a public hearing must be granted if requested by at least 25 persons, a governmental subdivision or agency, or an association having at least 25 members.

Symbology in proposed amendments. New language added to an existing section is indicated by the use of **bold text**. [Brackets] indicate deletion of existing material within a section.

TITLE 10. COMMUNITY DEVELOPMENT

Part V. Texas Department of Commerce

Chapter 195. Memoranda of Understanding

10 TAC §195.13, §195.14

The Texas Department of Commerce (Commerce) proposes to adopt by reference new §195.13 and §195.14, concerning Memoranda of Understanding with the Texas Department of Transportation and the Texas Parks & Wildlife Department and with the Texas Natural Resource Conservation Commission, respectively. Government Code, §481.028(b)(5) requires Commerce to enter into a memorandum of understanding with the Texas Department of Transportation and the Texas Parks & Wildlife Department regarding each agency's efforts to promote tourism. Government Code, §481.028(b)(6) requires Commerce to enter into a memorandum of understanding with the Texas Natural Resource Conservation Commission regarding small business finance and permits, the marketing of recyclable products and business permits.

Commerce proposes to adopt §195.13, containing the memorandum of understanding by and between the Texas Department of Transportation, the Texas Parks & Wildlife Department and Commerce, dated May 25, 1995, and effective through August 31, 1999, by reference to 43 TAC §§23.40-23.47 of the rules of the Texas Department of Transportation. The rules contained in 43 TAC §§23.40-23.47 were published for final adoption in the March 12, 1996, issue of the *Texas Register* (21 TexReg 5980) and became effective July 9, 1996.

The memorandum of understanding with the Texas Department of Transportation and the Texas Parks & Wildlife Department designates the parties to the agreement, cites the statutory authority and responsibilities of the parties to promote Texas tourism, and sets forth the agreement to cooperate on developing and promoting Texas as a premier travel destination through marketing, magazines, TOURTEX 2000, travel information centers, photo files, shows, research/information sharing, community profiles, community education/training, tourism business assistance, 1-800 numbers, fulfillment operations and collateral materials. The memorandum of understanding also provides for effective and termination dates, permits each agency to terminate the agreement, requires that amendments be made in writing, requires each agency to adopt the memorandum of un-

derstanding as a rule, and requires that the memorandum of understanding is subject to the statutory authority of each agency, other applicable law and appropriations.

Commerce proposes to adopt §195.14, containing the memorandum of understanding by and between the Texas Natural Resource Conservation Commission and Commerce, which is effective through August 31, 1999, by reference to 30 TAC §7.101. The rule contained in 30 TAC §7.101 was published for final adoption in the July 23, 1996, issue of the *Texas Register* (21 TexReg 6896) and became effective August 5, 1996.

The memorandum of understanding with the Texas Natural Resource Conservation Commission allows the two agencies to coordinate their programs and activities for small businesses effectively.

Renee Mauzy, Assistant General Counsel, has determined that for the first five year period the sections are in effect there will be fiscal implications to the state as a result of enforcing or administering the rules. The exact fiscal implications cannot be determined, because they depend on the nature and extent of the programs cooperatively participated in by the affected agencies. It is anticipated that some cost savings may be achieved by the increased cooperation. There are no anticipated fiscal implications to local governments as a result of enforcing or administering the rules.

Ms. Mauzy also has determined that there will be no significant impact on local economies or overall employment as a result of enforcing or administering the proposed rules.

Ms. Mauzy also has determined that for each year of the first five years the proposed rules are in effect the public benefit anticipated as a result of enforcing the rules will be increased coordination, planning and communication among the affected agencies. Reduced costs may result from the avoidance of duplicative services. In the case of the memorandum of understanding with the Texas Department of Transportation and the Texas Parks & Wildlife Department, there may be a reduction in costs if the agencies consolidate some operations. There will be no effect on small business except that they should benefit by the increased cooperation between Commerce and the Texas Natural Resource Conservation Commission.

Written comments on the proposed rules may be submitted to Renee Mauzy, Assistant General Counsel, P. O. Box 12728, or 1700 North Congress Avenue, Suite 130, Austin, Texas 78711-2728 within 30 days of the date the proposed rules are

published in the *Texas Register*. Written comments may also be faxed to Ms. Mauzy at (512) 936-0415 within the 30 day comment period.

The rules are proposed under Government Code, §481.005(d) which gives the Commerce Policy Board the authority to adopt rules to carry out responsibilities under the Commerce Act and §481.028(d) which requires Commerce to adopt memoranda of understanding as agency rules.

Government Code §481.028 is affected by these proposed rules.

§195.13. *Memorandum of Understanding with the Texas Department of Transportation and the Texas Parks and Wildlife.*

The Texas Department of Commerce adopts as an agency rule the Memorandum of Understanding by and between the Texas Department of Transportation, the Texas Parks & Wildlife Department and the Texas Department of Commerce, dated May 25, 1995, and effective through August 31, 1999, which became effective as a rule of the Texas Department of Transportation July 9, 1996, and which is published in 43 TAC §§23.40-23.47. The Memorandum of Understanding concerns the areas of mutual cooperation between the three agencies regarding tourism promotion efforts. The text of the Memorandum of Understanding may be found in 43 TAC §§23.40-23.47.

§195.14. *Memorandum of Understanding with the Texas Natural Resource Conservation Commission.*

The Texas Department of Commerce adopts as an agency rule the Memorandum of Understanding by and between the Texas Natural Resource Conservation Commission and the Texas Department of Commerce, which is effective through August 31, 1999, which became effective as a rule of the Texas Natural Resource Conservation Commission August 5, 1996, and which is published in 30 TAC §7.101. The Memorandum of Understanding provides for the coordination by the affected agencies of their small business programs and activities. The text of the Memorandum of Understanding may be found in 30 TAC §7.101.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas on September 5, 1996.

TRD-9612910

W. Lane Lanford

Chief Administrative Officer

Texas Department of Commerce

Earliest possible date of adoption: October 21, 1996

For further information, please call: (512) 936-0178



TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

Chapter 9. Liquefied Petroleum Gas Division

Subchapter A. General Applicability and Requirements

16 TAC §9.33

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Railroad Commission of Texas or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Railroad Commission of Texas proposes the repeal of §9.33, relating to the U.S. Department of Labor (DOL) Defense Conversion Adjustment Grant Advisory Committee. The section implemented Senate Bill 383, 73rd legislature, 1993, and created the U.S. Department of Labor (DOL) Defense Conversion Adjustment Grant Advisory Committee of the commission. It also established the committee's duration; set forth the purpose and duties of the committee; prescribed the composition of the committee, the appointment process, and the membership terms of the committee; and set forth the mechanisms by which the committee met, performed its work, and was evaluated. The repeal is proposed because the term of the grant expired on June 17, 1996, after which the purpose for the advisory committee was terminated. The advisory committee met for the last time on September 13, 1995. The proposed effective date of November 1, 1996, will allow Commission staff adequate time to file the report required in subsection (k) with the Legislative Budget Board.

Thomas D. Petru, assistant director, LP-Gas Section, Gas Services Division, has determined that for the first five-year period the repeal is in effect there will be no fiscal implications for state or local governments as a result of enforcing or administering the section.

Mr. Petru has also determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the deletion of a rule which is obsolete. There is no anticipated economic cost to small businesses or to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Kellie Martinec, Rules Coordinator, Office of General Counsel, Railroad Commission of Texas, P. O. Box 12967, Austin, Texas, 78711-2967. Comments will be accepted for 30 days after publication in the *Texas Register* and should refer to LP-Gas Docket Number 1520. For additional information, call Thomas D. Petru at (512) 463-6949.

The repeal is proposed under Texas Natural Resources Code, §113.051, which authorizes the commission to adopt rules relating to any and all aspects or phases of the LP-gas industry that will protect or tend to protect the health, welfare, and safety of the general public, and Texas Revised Statutes, Article 6252-33, §5 and §8.

Texas Natural Resources Code, §§113.051 and Texas Revised Statutes, Article 6252-33, §5 and §8 are affected by this proposed repeal.

§9.33. *U.S. Department of Labor (DOL) Defense Conversion Adjustment Grant Advisory Committee.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Issued in Austin, Texas, on September 10, 1996.

TRD-9613241

Mary Ross McDonald
Deputy General Counsel, Office of General Counsel
Railroad Commission of Texas
Proposed date of adoption: November 1, 1996
For further information, please call: (512) 463-7008



Subchapter B. Basic Rules

16 TAC §9.167, §9.189

The Railroad Commission of Texas proposes amendments to §9.167 and §9.189, relating to filling density, and grounding and electrical. Section 9.167 defines filling density and specifies the maximum filling density for different types of containers. Section 9.189 requires that containers larger than 1,200 gallons shall be grounded and that electrical installations near those containers shall comply with the *National Electric Code*. The proposed amendments to both sections are nonsubstantive and include some changes in wording or punctuation to provide clearer language. The main amendment to §9.167 is the correction of the subchapter titles, while §9.189 contains new text added to replace the information formerly in chart format and clarifies that automatic dispensers are exempt from the requirements in §9.189, but must comply with §9.1565 of this title (relating to safety requirements).

Thomas D. Petru, assistant director, LP-Gas Section, Gas Services Division, has determined that for each of the first five years the sections as proposed will be in effect there will be no fiscal implications for state or local governments as a result of enforcing or administering the sections.

Mr. Petru has also determined that the public benefit anticipated as a result of enforcing the sections will be an increase in safety due to more easily understood LP-gas rules. There is no anticipated economic cost to small businesses or to individuals who are required to comply with the proposed amendments.

Comments on the proposal may be submitted to Kellie Martinec, Rules Coordinator, Office of General Counsel, P.O. Box 12967, Austin, Texas 78711-2967. Comments will be accepted for 30 days after publication in the *Texas Register* and should refer to LP-Gas Docket Number 1532. For more information, contact Thomas D. Petru at (512) 463-6949.

The amendments are proposed under the Texas Natural Resources Code, §113.051, which authorizes the commission to adopt rules relating to any and all aspects or phases of the LP-gas industry that will protect or tend to protect the health, welfare, and safety of the general public.

Texas Natural Resources Code, §113.051 is affected by these proposed amendments.

§9.167. Filling Density.

(a) The "filling density" is defined as the percent ratio of the weight of gas in a container to weight of water the container will hold at 60 degrees Fahrenheit. The filling densities for storage containers used with systems described [embodied] in Subchapters F, H, I, O, P, Q, and T of this chapter (relating to consumer LP-gas systems, nonspecification transport containers; trucks transporting LP-gas in portable containers, LP-gas motor fuel and mobile fuel containers, bottle filling plants; service stations dispensers, farm

carts, LP-gas powered vehicles and carburetion equipment used in a building or on a consumer's premises, and DOT MC-330 and MC-331 transport containers [Subchapter D of this chapter (relating to Division II), Subchapter E of this chapter (relating to Division III), Subchapter F of this chapter (relating to Division IV), Subchapter G of this chapter (relating to Division V), Subchapter K of this chapter (relating to Division IX), Subchapter L of this chapter (relating to Division X), and Subchapter M of this chapter (relating to Division XI)] shall not exceed the **following** ratios : [following.] Figure: 16 TAC 9.167(a)

(b) For ICC or DOT containers for use with LP-gas, filling densities shall be **those** [as] prescribed by **DOT** [the Department of Transportation] on the date of adoption of these rules.

(c) The maximum liquid volume in percent of the total container capacity can be determined for LP-gases at any liquid temperature by using the formula shown in §9.924 of this title (relating to Appendix D)[, which is incorporated herein and made a part hereof for any and all purposes].

(d) The maximum volume in percent of total container capacity shown in §9.925 of this title (relating to Appendix E)[, which is incorporated herein and made a part hereof for any and all purposes,] can be used in lieu of the table [set forth] in subsection (a) of this section to determine the maximum quantity that may be placed in a container.

§9.189. Grounding and Electrical Requirements.

(a) (No change.)

(b) Electrical installations within the vicinity , **as that term is defined in subsection (c) of this section**, of LP-gas storage containers or LP-gas transfer, handling, or dispensing equipment shall **comply** [be in accordance] with the **NEC** [National Electric Code (NEC)] for Class 1, Group D: Hazardous Locations, Division 1 [area] or [Division] 2 **areas, where combustible gases are normally present during operation, or where combustible gases are present only under abnormal conditions, respectively.** [area. A Division 1 area is where combustible gases are normally present during operation. A Division 2 area is where combustible gases are present only under abnormal conditions.] This requirement does not apply to residential installations, including manufactured housing. [The vicinity of storage containers or equipment is that area indicated by the following chart.]

[Distance Requirements from Container or Equipment for Class 1, Group D: Hazardous Locations NEC Classification Measured in All Directions

[Division 1 Area—Division 2 Area

[Container— Within 5 feet— 5 - 10 feet

[§9.189 LP-GAS CHART I]

(c) **The vicinity of a container for areas defined as Division 1 as specified in subsection (b) of this section includes the area up to five feet away from the container, and/or the transfer, handling, or dispensing equipment. The vicinity for areas defined as Division 2 includes the area from five to 10 feet from the container, and/or the transfer, handling, or dispensing equipment.**

(d) Automatic dispensers are not required to comply with this section but shall comply with the requirements in §9.1565 of this title (relating to safety requirements).

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Issued in Austin, Texas, on September 10, 1996.

TRD-9613246

Mary Ross McDonald

Deputy General Counsel, Office of General Counsel

Railroad Commission of Texas

Proposed date of adoption: October 21, 1996

For further information, please call: (512) 463-7008



16 TAC §9.172

The Railroad Commission of Texas proposes an amendment to §9.172, relating to employee instructions and consumer instructions, and §9.232, relating to installation of appliances. Section 9.172 specifies that licensees are required to provide employees and consumers with instructions on the operation, installation, and maintenance of LP-gas equipment and appliances. Section 9.232 states appliances must be installed according to manufacturer's instructions. The proposed amendments to §9.172 move the current language in §9.172(b) to §9.232, which is a more logical place since that subchapter deals with appliances. Both sections are proposed to be retitled, and other proposed nonsubstantive amendments in both sections include some changes in wording or punctuation to provide clearer language.

Thomas D. Petru, assistant director, LP-Gas Section, Gas Services Division, has determined that for each of the first five years the sections as proposed will be in effect there will be no fiscal implications for state or local governments as a result of enforcing or administering the sections.

Mr. Petru has also determined that the public benefit anticipated as a result of enforcing the sections will be an increase in safety due to better organized and more easily understood LP-gas rules. There is no anticipated economic cost to small businesses or to individuals who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Kellie Martinec, Rules Coordinator, Office of General Counsel, P.O. Box 12967, Austin, Texas 78711-2967. Comments will be accepted for 30 days after publication in the *Texas Register* and should refer to LP-Gas Docket Number 1527. For more information, contact Thomas D. Petru at (512) 463-6949.

The amendment is proposed under the Texas Natural Resources Code, §113.051, which authorizes the commission to adopt rules relating to any and all aspects or phases of the LP-gas industry that will protect or tend to protect the health, welfare, and safety of the general public.

Texas Natural Resources Code, §113.051 is affected by this proposed amendment.

§9.172. *Employee Instructions [and Consumer Instructions].*

[(a)] Any licensee who employs [or utilizes] an individual in LP-gas [related] activities shall provide that **employee** [individual] with instructions on the operation, installation, and maintenance

of the LP-gas equipment **and**[and/or] appliances with which the **employee**[individual] works.

[(b)] Any person who sells a new LP-gas appliance shall give to the person purchasing such appliance available manufacturer's instructions for the safe use of the appliance.]

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Issued in Austin, Texas, on September 10, 1996.

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Mary Ross McDonald

Deputy General Counsel, Office of General Counsel

Railroad Commission of Texas

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For further information, please call: (512) 463-7008



Subchapter D. LP-Gas Appliances and Appurtenant Equipment

16 TAC §9.232

The amendment is proposed under the Texas Natural Resources Code, §113.051, which authorizes the commission to adopt rules relating to any and all aspects or phases of the LP-gas industry that will protect or tend to protect the health, welfare, and safety of the general public.

Texas Natural Resources Code, §113.051 is affected by this proposed amendment.

§9.232. *Purchase and Installation of Appliances.*

Any person who sells a new LP-gas appliance shall give to the purchaser the manufacturer's instructions for the safe use of the appliance. Appliances shall be installed according to their listings and manufacturer's **instructions** [instruction].

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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Subchapter B. Basic Rules

16 TAC §9.174

The Railroad Commission of Texas proposes an amendment to §9.174, relating to hose specifications. Section 9.174 describes requirements for hose used in LP-gas liquid or vapor service, including material, marking, burst pressure, and container pressure. The proposed substantive amendments include the deletion of subsection (d), which is redundant because it is

already covered in §9.156 of this title (relating to appurtenances and equipment), and the addition of new subsection (f), which exempts hose connections used at agricultural and industrial structures from the requirements of subsection (e), provided they comply with requirements in §9.239 and §9.958 of this title (relating to appliance connectors and piping support). The amendments to these sections regarding this specific exemption were adopted by the commission and published in the April 7, 1995, *Texas Register* (20 TexReg 2623). The proposed new subsection (f) in §9.174 will make it consistent with the previously adopted amendments. Other proposed nonsubstantive amendments include changes in wording or punctuation to provide clarity.

Thomas D. Petru, assistant director, LP-Gas Section, Gas Services Division, has determined that for each year of the first five years the section as proposed will be in effect, there will be no fiscal implications for state and local governments as a result of enforcing or administering the section.

Mr. Petru also has determined that the public benefit anticipated as a result of enforcing the section will be more consistent requirements for the LP-gas industry, particularly the agricultural and industrial users. There is no anticipated economic cost to small businesses or to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Kellie Martinec, Rules Coordinator, Office of General Counsel, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967. Comments will be accepted for 30 days after publication in the *Texas Register* and should refer to LP-Gas Docket Number 1519. For more information, contact Thomas D. Petru at (512) 463-6949.

The amendment is proposed under the Texas Natural Resources Code, §113.051, which authorizes the commission to adopt rules relating to any and all aspects or phases of the LP-gas industry that will protect or tend to protect the health, welfare, and safety of the general public.

Texas Natural Resources Code, §113.051 is affected by this proposed amendment.

§9.174. *Hose Specifications.*

(a) Hose shall be fabricated of materials that are resistant to the action of LP-gas in **both** [the] liquid and vapor **service** [phases]. If wire braid is used for reinforcing the hose, it shall be corrosion-resistant material such as stainless steel.

(b) Hose **that is** subject to container pressure shall be continuously marked in clearly legible letters and figures with the manufacturer's name or other identification[,] and the wording "LP-gas" or "LPG."

(c) Hose **that is** subject to container pressure shall be designed for a bursting pressure of **at least** [not less than] 1,750 psig[,] and a working pressure of 350 psig.

[(d) Hose subject to container pressure shall have its correctness as to design construction and performance determined by:

[(1) listing by Underwriters Laboratories, Inc.; or

[(2) listing by a nationally recognized testing laboratory that is approved by the commission.]

(d) [(e)] Hose connections **that are** subject to container pressure shall be capable of withstanding[, without leakage,] a test pressure of **at least** [not less than] 500 psig **without leaking** .

(e) [(f)] Hose and hose connections on the low pressure side of the regulator or reducing valve shall be designed for a bursting pressure of **at least** [not less than] 125 psig.

(f) **Hose connections used at agricultural and industrial structures shall be exempt from the requirements of subsection (f) of this section provided they comply with the requirements of §9.239 and §9.958 of this title (relating to appliance connectors and piping support). These structures shall comply with the other requirements in this section.**

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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Subchapter F. Consumer LP-Gas Systems

16 TAC §9.463

The Railroad Commission of Texas proposes an amendment to §9.463, relating to reinstallation of underground containers. Section 9.463 lists requirements for underground containers which have been removed and are to be reinstalled.

The proposed amendment makes identification requirements consistent, allow the use of either a metal tag or a decal, and allow one tag or decal to serve for all identification required in §§9.184, 9.231, 9.462, 9.771, and 9.952, relating to uniform safety requirements, identification of approved appliances, containers manufactured for underground installation, vehicle identification labels, and piping installation identification. Amendments to these sections regarding the single tag or decal were adopted by the commission and published in the October 17, 1995, *Texas Register* (20 TexReg 8450). This proposed rule-making will add §9.463 to those sections that may use a single tag or decal provided all the required information is included.

Thomas D. Petru, assistant director, LP-Gas Section, Gas Services Division, has determined that for each year of the first five years the section as proposed will be in effect, there will be no fiscal implications for state and local governments as a result of enforcing or administering the section.

Mr. Petru also has determined that the public benefit anticipated as a result of enforcing the section will be more practical and flexible requirements for the LP-gas industry. There is no anticipated economic cost to small businesses or to individuals; in fact, the proposed amendment may result in a reduction in cost since the amendment as proposed will allow licensees to use only one tag or decal to satisfy the identification require-

ments described in these sections. Licensees therefore will not be required to stock and use several forms of identification.

Comments on the proposal may be submitted to Kellie Martinez, Rules Coordinator, Office of General Counsel, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967. Comments will be accepted for 30 days after publication in the *Texas Register* and should refer to LP-Gas Docket Number 1521. For more information, contact Thomas D. Petru at (512) 463-6949.

The amendment is proposed under the Texas Natural Resources Code, §113.051, which authorizes the commission to adopt rules relating to any and all aspects or phases of the LP-gas industry that will protect or tend to protect the health, welfare, and safety of the general public.

Texas Natural Resources Code, §113.051 is affected by this proposed amendment.

§9.463. *Reinstallation of Underground Containers.*

(a)-(c) (No change.)

(d) Upon completion of the container installation, the licensee making the installation shall attach to one of the container valves a **decals or tag of metal or other permanent material** [metal tag] bearing the **following information:** [firm name of the licensee making the installation, the licensee's current license number, and the year installed.]

- (1) **the licensee's name;**
- (2) **the LP-gas license number; and**
- (3) **the year the container was installed.**

(e) **A single identification decal or tag may be used to satisfy the requirements in §§9.184, 9.231, 9.462, 9.771, and 9.952 of this title (relating to uniform safety requirements, identification of approved appliances, containers manufactured for underground installation, vehicle identification labels, and piping installation identification, respectively) provided the decal or tag meets all the requirements of those sections.**

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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Mary Ross McDonald

Deputy General Counsel, Office of General Counsel
Railroad Commission of Texas

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TITLE 25. HEALTH SERVICES

Part II. Texas Department of Mental Health and Mental Retardation

Chapter E. Health, Safety, and Rights in Community-based Mental Retardation Programs

25 TAC §§408.151-408.164

The Texas Department of Mental Health and Mental Retardation (TDMHMR) proposes new §408.151-408.164 of Chapter 408, Subchapter E, concerning health, safety, and rights in community-based mental retardation programs.

The proposed sections describe key points of health, safety, and rights standards necessary to ensure the protection of individuals receiving mental retardation supports and services in community-based programs. These standards will be applied within the scope of the Quality Assurance and Improvement System (QAIS) as described in Chapter 408, Subchapter C governing quality assurance and improvement system (QAIS) for mental retardation services and supports. The standards set forth in the rule are intended to replace the 1988 TDMHMR Community Standards for Individuals with Mental Retardation which are adopted by reference in Chapter 408, Subchapter A governing standards of the Texas Department of Mental Health and Mental Retardation – quality assurance

Donald C. Green, chief financial officer, has determined that for the each year of the first five-year period the new sections as proposed are in effect there will be no significant fiscal impact on state and local governments as a result of enforcing the provisions of the subchapter. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Sue Dillard, director, Quality Management, has determined that for each year of the first five year period the sections as proposed are in effect the public benefit anticipated is the department's compliance with state law and the elimination or reduction of standards or conflicts between standards and functions in license, certification, or compliance surveys and complaint investigations. There will be no significant impact on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Questions about the content of the proposal may be directed to Sue Dillard, director, Monitoring and Compliance division, Managed Care Administration. Written comments on the proposal may be sent to Linda Logan, director, Policy Development, Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711-2668, within 30 days of publication.

A hearing to accept public testimony regarding the proposal has been scheduled for 1:30 p.m., Tuesday, October 10, 1996, in the TDMHMR Central Office auditorium (main building) at 909 West 45th Street in Austin, Texas. If interpreters for the hearing impaired are required, please contact Laura Thomas in the Office of Policy Development at (512) 206-4516 at least 72 hours prior to the hearing.

These sections are proposed under the Texas Health and Safety Code, §532.015, which provides the Texas Mental Health and Mental Retardation Board with broad rulemaking authority, and §534.052, which gives the board rulemaking authority for community-based mental health and mental retardation services provided by community centers and other contract providers.

The sections would affect the Texas Health and Safety Code, §142.009(k) and §532.052.

§408.151. Purpose.

This subchapter describes standards for the provision of community-based mental retardation services and supports, as required by the Texas Health and Safety Code, §534.052, to ensure that the quality of those services and supports are consistent with those provided by department facilities, as required by the Texas Health and Safety Code, §534.058. These are minimum standards for ensuring that the health, safety, and rights of individuals receiving community-based services and supports are protected and supported. They are intended to be implemented in conjunction with:

(1) Chapter 408, Subchapter C of this title (relating to Quality Assurance and Improvement System (QAIS) for Mental Retardation Services and Supports), and

(2) Chapter 408, Subchapter D of this title (relating to Additional Mandatory Standards for Selected Providers of Community-based Mental Retardation Supports and Services).

§408.152. Application.

This subchapter applies to community-based mental retardation services and supports funded by the department and delivered by:

(1) local mental retardation authorities (including both community centers and state operated community MHMR services) and the providers with which they contract; and

(2) designated providers.

§408.153. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

AIDS – Acquired immune deficiency syndrome as defined by the National Centers for Disease Control and Prevention of the U.S. Public Health Service.

Actively involved – Involvement with the individual which the IDT deems to be of a quality nature based on the following:

(A) observed interactions of the person with the individual;

(B) advocacy for the best interests of the individual;

(C) knowledge of and sensitivity to the individual's preferences, values, and beliefs;

(D) ability to communicate with the individual; and

(E) availability to the individual for assistance or support when needed.

Behavior management – All efforts to increase socially adaptive behavior and to modify maladaptive or problem behaviors and replace them with behaviors and skills that are adaptive and socially productive. This broad category includes behavior interventions, emergency procedures used to protect an individual or other persons due to the actions of that individual, and both formal and informal planned interactions intended to increase socially adaptive behavior and/or to modify maladaptive or problem behaviors.

Community center– A community mental health and mental retardation center established under the Texas Health and Safety Code, Title 7, Chapter 534.

Designated provider– As defined in the Texas Health and Safety Code, §534.054(c), a service provider with whom the department contracts for the delivery of a specific community-based mental retardation support or service in a specified local service area of the state if the MRA for that local service area is unable or unwilling to provide that service. The term does not include a local authority.

Emergency care– Procedures and intervention designed to respond to medical emergencies.

Hepatitis B– An infection of the liver caused by the hepatitis B virus (HBV).

Hepatitis B immunization– Vaccination of persons at risk of infection from HBV.

Hepatitis B testing– Blood test for detection of hepatitis B surface antigens and antibodies.

HIV– Human immunodeficiency virus.

HIV testing– Blood test for detection of Human Immunodeficiency Virus infection.

HRC (human rights committee)– A committee appointed by the MRA comprising an independent group of representatives with the delegated authority to ensure that the civil and legal rights of individuals receiving services are acknowledged, respected, and protected through the review of organizational practices and approaches. The HRC is a mechanism for ensuring due process. Members of the human rights committee include, but are not limited to, individuals served by the MRA or designated provider, their legally authorized representatives, local advocates, and persons from the community who are not affiliated with the MRA or designated provider.

(A) Minimally, one committee member should be experienced in issues and decisions regarding human rights.

(B) At least one third of the members should not be affiliated with the MRA or designated provider.

(C) Any member directly involved in the development, review, or approval of a proposal before the committee will not take part in deliberations relative to that proposal.

(D) Members should receive appropriate training to maximize the benefit of their participation on the committee.

Interdisciplinary team (IDT)– A group of mental retardation professionals and paraprofessionals who assess the individual's treatment, training, and habilitation needs and, with other concerned persons, make recommendations for services. This group designated by the MRA or designated provider includes:

(A) the individual;

(B) the legally authorized representative of an individual who has been adjudicated by a court as lacking legal capacity;

(C) at the invitation of the individual with capacity or the legally authorized representative, family members or other persons who are actively involved in the life of the individual;

(D) persons who are professionally qualified, certified, or both, in various professions with special training and experience in the diagnosis, management, needs, and treatment of individuals with mental retardation;

(E) persons who are directly involved in the delivery of mental retardation services to the individual; and

(F) member(s) of the local authority's public responsibility committee (PRC), if requested by the individual with capacity, a legally authorized representative, or the PRC.

Informed consent (legally adequate consent)– A term consistent with provisions of the Texas Health and Safety Code, §591.006, concerning consent obtained from an individual with mental retardation which is legally adequate when each of the following conditions has been met:

(A) legal status: The individual giving the consent is of the minimum legal age and currently does not have a guardian appointed to manage personal affairs by an appropriate court of law;

(B) comprehension of information: The individual giving the consent has been informed of and comprehends the nature, purpose, consequences, risks, and benefits of and alternatives to the procedure, and the fact that withholding or withdrawal of consent shall not prejudice the future provision of care and services to the individual with mental retardation; and

(C) voluntariness: The consent has been given voluntarily and free from coercion and undue influence.

Legally authorized representative– The parent of an individual who is a minor, the guardian of an individual who has been determined by a court to lack capacity, or the managing conservator of an individual.

MRA (mental retardation authority)– As defined in the Texas Health and Safety Code, §531.002, an entity to which the Texas Mental Health and Mental Retardation Board delegates its authority and responsibility within a specified region for planning, policy development, coordination, and resource development and allocation and for supervising and ensuring the provision of mental retardation services to individuals with mental retardation in one or more local service areas. An MRA can be either a community center or a state-operated community MHMR services division.

Medication administration– The direct application of a drug by injection, inhalation, ingestion, topical application or any other means to the body of a person in accord with the Texas Medical Practice Act.

Polypharmacy– Simultaneous use of more than one psychotropic medication from the same medication class to treat an individual. The period of overlapping use of more than one psychotropic medication when a physician changes an individual from one drug to another shall not be considered polypharmacy.

Psychoactive medication – Any medication which is prescribed for the primary intent of, improving cognition, affective state, and/or behavior.

Restraint, physical– Refers to the use of personal restraint methods or mechanical devices that are intended to restrict the movement or normal functioning of a portion of an individual's body.

State operated community-based MHMR services division– Those entities which provide community-based mental health and/or mental retardation services and which are operated by the department. Formerly known as community-based service divisions of state facilities.

Tardive dyskinesia– A possible side effect of neuroleptic medication characterized by involuntary and abnormal movements which are purposeless and stereotypical.

Tuberculosis– A disease spread through airborne particles containing tubercle bacilli which become established in the lungs and may spread throughout the body.

§408.154. Encouraging Full Expression of Individual Rights.

(a) The MRA or designated provider will encourage the full expression of legal and civil rights by each individual receiving services and will provide supports, as necessary, to assist individuals and their legally authorized representatives in the exercise of their rights. The MRA or designated provider will fully inform individuals and their legally authorized representatives of their rights as guaranteed under the Persons with Mental Retardation Act (Texas Health and Safety Code, Title 7, Subtitle D). In doing so, the MRA or designated provider will refer to Chapter 405, Subchapter Y of this title (relating to Client Rights – Mental Retardation Services) and use the handbook prescribed in the subchapter.

(b) The MRA or designated provider shall ensure that due process is provided when an individual's rights must be limited. (As applicable, see Chapter 405, Subchapter J of this title (relating to Surrogate Decision-Making for Community-Based ICF/MR and ICF/MR/RC Facilities).) Due process includes:

(1) obtaining informed consent in writing for a period not to exceed one year from the individual or the legally authorized representative; and

(2) review by the IDT and, if appropriate, the human rights committee of the proposed limitation of the individual's rights.

(c) When an individual's rights must be limited, the IDT will consider what, if any, training or modifications to the individual's habilitation plan might enable the limitations to be removed.

(d) The MRA or designated provider shall develop and implement procedures for reporting and investigating allegations of rights violations, and taking appropriate action in confirmed cases. See Chapter 404, Subchapter B of this title (relating to Abuse, Neglect, and Exploitation of People Served by Providers of Local Authorities).

(f) Procedures for appeal of decisions shall be delineated and publicized, and shall include a mechanism for external review or mediation if agreement can not be reached. For MRAs, these procedures will include those set forth in §401.464 of this title (relating to Notification and Appeals Process). See Chapter 401, Subchapter G of this title (relating to Community Mental Health and Mental Retardation Centers.)

§408.155. Human Resources.

(a) The MRA or designated provider ensures that:

(1) all staff possess the work experience and education/credentials required by the job description or contract;

(2) verification of credentials and verification of the renewal of credentials is maintained in the human resource file for all certified or licensed professionals;

(3) professional personnel are licensed, certified, or registered, if required by law;

(4) there is a mechanism in place for maintaining and ensuring standards of professional and ethical practice; and

(5) staff have the necessary training and demonstrate the necessary skills to ensure that the health, safety, and support needs of individuals are met.

§408.156. Medication Practice and Health Related Services.

(a) The MRA or designated provider operates in accordance with accepted principles of practice and applicable federal and state laws and regulations to ensure medication is administered safely and appropriately. The written policies and procedures of the MRA or designated provider shall address:

- (1) proper handling, storage, and disposal of medications;
- (2) proper use of telephone orders;
- (3) administration of medications by staff licensed or authorized to administer medications;
- (4) administration of medications without errors; and
- (5) documentation of follow up and corrective action when medication errors do occur.

(b) Each individual receives preventive and timely health care services based on health needs and condition.

(c) The MRA or designated provider ensures the availability of physician, dental, nursing, pharmacy, and laboratory services by qualified personnel, in compliance with laws and regulations, based on each individual's needs, and provides for emergency care during hours of program operation.

(d) The MRA or designated provider has written policies and procedures which address the use of physical restraints and psychoactive medication when necessary during a medical or dental procedure or to promote healing following a medical procedure or an injury. The policies and procedures shall address appropriate documentation including:

- (1) medical necessity;
- (2) the behavior to be controlled;
- (3) a physician's or dentist's written order;
- (4) renewals, if necessary, every 12 hours; and
- (5) provision of appropriate medical treatment and observation.

§408.157. Infection Control.

(a) In accordance with recommendations of The Centers For Disease Control and Prevention and the Occupational Safety and Health Administration, the MRA or designated provider shall ensure that an infection control plan is in place to decrease the risk for infection and/or transmission of diseases.

(b) Documentation shall be included in the MRA's records that the plan has been implemented.

(c) The plan addresses the following:

- (1) orientation training and updates;
- (2) prevention and management of infections for staff/providers and individuals (to include, but not be limited to, HIV, hepatitis B, and tuberculosis);

(3) postexposure treatment for consumers and staff;

(4) procedures for reporting of reportable diseases to the Texas Department of Health (TDH);

(5) personnel policies in compliance with state and federal law;

(6) testing for AIDS and Hepatitis B;

(7) hepatitis B immunization; and

(8) special waste disposal as required by TDH as described in 25 TAC §§1.131-1.137 (relating to Definition, Treatment, and Disposition of Special Waste from Health Care).

§408.158. Behavior Management.

(a) The MRA or designated provider has policies and procedures addressing behavior management which:

- (1) specify all approved interventions;
- (2) designate a hierarchy of intervention from most positive and least intrusive to most restrictive and intrusive; and
- (3) specify accepted standards of professional practice for the use of these interventions.

(b) Restrictive interventions (i.e., physical restraint, time-out, or psychoactive medications) are used only when warranted by the severity of the behavior, based on a functional analysis and team input, and result in desired behavioral outcomes.

(c) The emergency use of restrictive interventions occurs when the behavior is not predictable and presents the clear threat of injury to self or others. If emergency interventions are needed more than twice during two consecutive months a functional analysis is undertaken to develop a program to reduce the frequency and severity of the identified behaviors.

(d) Restrictive interventions may be used as part of an individualized plan that is intended to lead to less restrictive means of managing and eliminating the behavior or mental illness.

(e) Monitoring of the individual during all restrictive interventions is at the appropriate level for the type of intervention being used and assures that individual rights are protected.

(f) All restrictive interventions addressing the management of targeted behavior are justified by the functional assessment, the current level of behavior, and are reviewed by the treatment team at least annually to determine the ongoing need and to assess for the possible decrease in the use of the intervention, based on current clinical evidence. When possible, the acquisition of adaptive replacement behaviors are also measured.

(g) Non-contingent interventions (i.e. environmental engineering, counseling, drug therapies, etc.) are similarly evaluated for their effectiveness through the use of individualized and quantified measures.

(h) Except in an emergency, written informed consent for a period not to exceed one year is obtained when restrictive interventions are necessary. When a program is mandatory because the use of emergency interventions has become predictable, the failure to obtain written informed consent is not justification for not establishing a program.

(1) The Human Rights Committee should review the situation carefully as a matter of due process. When the failure to obtain written informed consent is based on the individual's assessed lack of capacity, the need for obtaining a guardian should be considered. When applicable, surrogate decision making will be considered as described in Chapter 405, Subchapter J of this title (relating to Surrogate Decision-Making for Community-Based ICF/MR and ICF/MR/RC Facilities.)

(2) The individual or guardian have the right to withdraw consent to treatment at any time without regard to any time limit specified in the consent form.

(3) People do not have the right to cause injury to self or others, but the individual does have a right to be free of unnecessary drugs and other restrictive interventions and to receive appropriate treatment. This can best be ascertained when planned interventions are evaluated and determined to be effective.

§408.159. Psychoactive Medications.

(a) In accordance with accepted principles of practice, the MRA or designated provider shall ensure that:

(1) psychoactive medications are used judiciously as part of an individualized plan in which the following are carefully considered:

(A) rationale;

(B) benefits of treatment in light of potential risks of the targeted behavior;

(C) overall impact on the individual's plan;

(D) adjunctive procedures;

(E) monitoring of side effects; and

(F) monitoring for efficacy;

(2) when tardive dyskinesia is suspected, the physician:

(A) informs the individual and/or legal guardian;

(B) discusses treatment options; and

(C) documents in the record that the individual and/or legal guardian has been informed of the suspected condition, possible treatment options, and the rationale for the treatment chosen;

(3) the physician obtains a second opinion to review and determine the safety of any usage of polypharmacy or over the maximum dosage levels when clinically indicated prior to the individual receiving such medications;

(4) informed consent in writing for a period not to exceed one year from the individual or legally authorized representative (including a surrogate decision-making committee, if applicable, as described in Chapter 405, Subchapter J of this title (relating to Surrogate Decision-Making for Community-Based ICF/MR and ICF/MR/RC Facilities)) is obtained prior to initiation of the medication unless the use is necessitated by an emergency as described in §408.158 of this title (relating to Behavior Management.). Informed consent must include:

(A) an explanation of the medication and its purposes;

(B) expected beneficial effects, side effects and risks;

(C) probable consequences of not taking medication;

(D) the existence and value of alternative less restrictive forms of treatment, if any, and why the physician rejects the alternative therapy;

(E) instruction that the individual may withdraw consent at any time without negative actions on the part of staff;

(F) an offer to answer any questions concerning the medication and its use; and

(G) a specification of the time period to be covered by the consent document

(5) informed consent will be obtained on at least an annual basis or any time the medication regimen is altered in a way which would result in a change of medication class or result in a significant change in the risks or benefits to the individual; and

(6) if the individual or legally authorized representative consents to the administration of psychoactive medication but is physically unable to provide written consent, the physician will document the verbal consent in the individual's record.

§408.160. Consumer Records.

(a) In accordance with accepted principals of practice, each MRA or designated provider must insure that a separate confidential record is established and maintained for each individual receiving services. This record must provide accurate documentation of the organization's efforts to provide health care, habilitation and support services, social information, and the protection of rights. The record should provide a readily accessible means of communication among all service providers.

(b) The MRA or designated provider will ensure that record entries:

(1) are accurate;

(2) are legible;

(3) are chronological;

(4) are not altered;

(5) are properly corrected when errors in documentation occur;

(6) are timely;

(7) are properly signed and dated;

(8) do not reference other consumers;

(9) use only accepted abbreviations and symbols;

(10) provide comprehensible documentation of services provided; and

(11) are consistent with written policies and procedures.

(c) Falsification of records is prohibited and the MRA or designated provider will ensure that falsification of records is not supported, encouraged, or condoned under any circumstances.

(d) The MRA or designated provider must provide and maintain accurate and complete consumer data as required by the state authority through the performance contract or performance memorandum and Chapter 408, Subchapter C of this title (relating to Quality Assurance and Improvement System (QAIS) for Mental Retardation Supports and Services).

(e) The MRA or designated provider shall make all records, reports, and other program information available for review on a timely basis when requested by the state authority.

§408.161. Environmental Requirements.

The MRA or designated provider ensures that:

(1) each individual's environment promotes human rights and dignity;

(2) each individual is served by a sufficient number and type of staff to provide services needed and to insure the safety and health of each individual;

(3) all sites meet the appropriate chapter of the most recent edition of the Life Safety Code (LSC);

(4) all sites have emergency plans which address relevant emergencies appropriate for the type of service, geographic location, and the individuals receiving services;

(5) all staff are knowledgeable of the emergency plans and that staff and individuals follow the plans during both drills and real procedures; and

(6) the local sanitation codes and licensure requirements are met;

§408.162. Additional Requirements.

(a) The MRA or designated provider assists individuals to enter the service delivery system whether or not they are admitted to direct services operated/contracted by the MRA..

(b) The MRA or designated provider ensures that information and education materials are available which are adapted to the cultural, economic and educational characteristics and translated into the languages appropriate to the major population subgroups of the local service area.

(c) The MRA or designated provider ensures that when services which are provided by two or more agencies that services are coordinated/integrated and consistent with the needs of the individual consumer.

(d) The MRA or designated provider ensures that:

(1) each individual receiving services and the legally authorized representative are encouraged to participated in the IDT;

(2) each IDT designs an individually tailored plan of services and supports (formal and informal) which describe what the individual needs to acquire the needed and desired skills and goals and details how the authority will assist and support;

(3) individual plans are modified or changed in response to the individual's specific accomplishments, need or desire for new programs, or difficulties in acquiring or maintaining skills; and

(4) each individual has a staff person who is accountable for supporting and assisting the individual in planning, coordinating, and monitoring supports and services.

(e) The MRA or designated provider ensures that:

(1) prior to admission to services a determination of mental retardation is made as described in Chapter 405, Subchapter D of this title (relating to Determination of Mental Retardation and Eligibility for Admission to Services.)

(2) assessments appropriate to the needs of the individual and in response to requests by the individual or legally authorized representative are obtained in order to direct and guide the service provision;

(3) within 21 days of initial contact the individual is:

(A) admitted into existing services;

(B) placed on a waiting list for existing services;

(C) determined to be ineligible for services and referred to an agency that can address the service request;

(4) when available services have been refused by the individual or legally authorized representative, the refusal is documented and appropriate alternatives are considered.

§408.163. References.

Texas laws, department rules, and other standards referenced in this subchapter include:

(1) Texas Health and Safety Code, §531.002;

(2) Texas Health and Safety Code, §534.052;

(3) Texas Health and Safety Code, §534.054(c);

(4) Texas Health and Safety Code, §534.058;

(5) Texas Health and Safety Code, §591.006;

(6) Persons with Mental Retardation Act (Texas Health and Safety Code, Title 7, Subtitle D);

(7) Texas Medical Practice Act;

(8) Chapter 401, Subchapter G of this title (relating to Community Mental Health and Mental Retardation Centers.

(9) Chapter 408, Subchapter C of this title (relating to Quality Assurance and Improvement System (QAIS) for Mental Retardation Services and Supports;

(10) Chapter 405, Subchapter Y of this title (relating to Client Rights – Mental Retardation Services;

(11) Chapter 408, Subchapter D of this title (relating to Additional Mandatory Standards for Selected Providers of Community-based Mental Retardation Supports and Services); and

(12) Life Safety Code.

§408.164. Distribution.

(a) Copies of this subchapter shall be distributed to:

(1) members of the Texas Mental Health and Mental Retardation Board;

(2) executive, management, and program staff of the department's Central Office;

(3) chairs of boards of trustees of community centers;

(4) chief executive officers (CEOs) of local mental retardation authorities and designated providers; and

(5) interested advocates and advocacy organizations.

(b) The CEOs of local mental retardation authorities and designated providers are responsible for distributing copies of this subchapter to:

(1) appropriate staff;

- (2) providers;
- (3) agents;
- (4) any individual receiving services and supports who requests a copy;
- (5) family members and advocates who request a copy;
- (6) any employee who requests a copy; and
- (7) any other person who requests a copy.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on September 11, 1996.

TRD-9613302

Ann K. Utley

Chairman, Texas MHMR Board

Texas Department Mental Health and Mental Retardation

Earliest possible proposed date of adoption: October 21, 1996

For further information, please call: (512) 206-4516



TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 1. Central Administration

Subchapter A. Practice and Procedure

34 TAC §1.1, §1.2

(Editor's Note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Comptroller of Public Accounts or in the Texas Register Office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Comptroller of Public Accounts proposes the repeal of §1.1 and §1.2, concerning intent and scope of rules, and construction of rules of practice and procedure. The sections are being repealed in order to combine this information with a new section dealing with the same subject matter. The information contained in these sections may be found in §1.1, concerning intent, scope, and construction of rules of practice and procedure.

Mike Reissig, chief revenue estimator, has determined that for the first five-year period the repeals will be in effect there will be no revenue impact on the state or local government.

Mr. Reissig also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the rule will be providing a more effective means of obtaining information. These repeals are adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no significant anticipated economic cost to individuals who are required to comply with the proposed repeals.

Comments on the proposal may be submitted to Mike Borkland, Chief Hearings Attorney, Legal Services Division, P.O. Box 13528, Austin, Texas 78711.

The repeals are proposed under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The repeals implement the Tax Code, §111.009 and §111.105.

§1.1. Intent and Scope of Rules.

§1.2. Construction of Rules.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on September 10, 1996.

TRD-9613220

Martin E. Cherry

Chief, General Law Section

Comptroller of Public Accounts

Earliest possible date of adoption: October 21, 1996

For further information, please call: (512) 463-4028



34 TAC §1.1

The Comptroller of Public Accounts proposes new §1.1, concerning intent, scope, and construction of rules. The comptroller has determined that rules of similar subject matter should be combined. The consolidation of rules will benefit the taxpayers of Texas and provide a more effective means of obtaining information. This new section consolidates §1.1, concerning intent and scope of rules and §1.2, concerning construction of rules.

Mike Reissig, chief revenue estimator, has determined that for the first five-year period the rule will be in effect there will be no significant revenue impact on the state or local government.

Mr. Reissig also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will in providing a more effective means of obtaining information. This rule is adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no significant anticipated economic cost to individuals who are required to comply with the proposed rule.

Comments on the proposal may be submitted to Mike Borkland, Chief Hearings Attorney, Legal Services Division, P.O. Box 13528, Austin, Texas 78711.

This new section is proposed under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The new section implements the Tax Code, §111.009 and §111.105.

§1.1. Intent, Scope, and Construction of Rules.

(a) The Rules of Practice and Procedure are intended to provide fair methods for hearing and resolving a taxpayer's disagreements with certain official actions of the Comptroller of Public Accounts. These rules govern all contested case proceedings before the administrative law judges.

(b) These rules will be given their most reasonable meaning taken in their total context, and will be construed to secure a just

resolution or decision for every controversy. They will not be construed to limit or repeal rights afforded or requirements imposed by law. Unless otherwise expressly provided, the past, present, or future tense each includes the other; the masculine, feminine, or neuter gender each includes the other; and the singular and plural number each includes the other. Definitions of some of the words used in these rules are contained in §1.42 of this title (relating to Definitions).

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on September 10, 1996.

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Martin E. Cherry

Chief, General Law Section

Comptroller of Public Accounts

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For further information, please call: (512) 463-4028



34 TAC §1.3, §1.42

(Editor's Note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Comptroller of Public Accounts or in the Texas Register Office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Comptroller of Public Accounts proposes the repeal of §1.3 and §1.42, concerning contested cases and definitions. These sections are being repealed in order to combine this information with a new section dealing with the same subject matter. The information contained in these sections may be found in §1.42, concerning definitions.

Mike Reissig, chief revenue estimator, has determined that for the first five-year period the repeals will be in effect there will be no revenue impact on the state or local government.

Mr. Reissig also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the rules will be providing a more effective means of obtaining information. These repeals are adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no significant anticipated economic cost to individuals who are required to comply with the proposed repeals.

Comments on the proposal may be submitted to Mike Borkland, Chief Hearings Attorney, Legal Services Division, P.O. Box 13528, Austin, Texas 78711.

The repeals are proposed under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The repeals implement the Tax Code, §111.009 and §111.105.

§1.3. *Contested Cases.*

§1.42. *Definitions.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on September 10, 1996.

TRD-9613232

Martin E. Cherry

Chief, General Law Section

Comptroller of Public Accounts

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For further information, please call: (512) 463-4028



34 TAC §1.7, §1.8

(Editor's Note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Comptroller of Public Accounts or in the Texas Register Office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Comptroller of Public Accounts proposes the repeal of §1.7 and §1.8, concerning content of statement of grounds and preliminary conference. The sections are being repealed in order to combine this information with a new section dealing with the same subject matter. The information contained in these sections may be found in §1.7, concerning content of statement of grounds and preliminary conferences.

Mike Reissig, chief revenue estimator, has determined that for the first five-year period the repeals will be in effect there will be no revenue impact on the state or local government.

Mr. Reissig also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the rule will be providing a more effective means of obtaining information. These repeals are adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no significant anticipated economic cost to individuals who are required to comply with the proposed repeals.

Comments on the proposal may be submitted to Mike Borkland, Chief Hearings Attorney, Legal Services Division, P.O. Box 13528, Austin, Texas 78711.

The repeals are proposed under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The repeals implement the Tax Code, §111.009 and §111.105.

§1.7. *Content of Statement of Grounds.*

§1.8. *Preliminary Conference.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on September 10, 1996.

TRD-9613222

Martin E. Cherry

Chief, General Law Section

Comptroller of Public Accounts

Earliest possible date of adoption: October 21, 1996

For further information, please call: (512) 463-4028



34 TAC §1.7

The Comptroller of Public Accounts proposes new §1.7, concerning content of statement of grounds; preliminary conference. The comptroller has determined that rules of similar subject matter should be combined. The consolidation of rules will benefit the taxpayers of Texas and provide a more effective means of obtaining information. This new section consolidates §1.7, concerning content of statement of grounds and §1.8, concerning preliminary conference.

Mike Reissig, chief revenue estimator, has determined that for the first five-year period the rule will be in effect there will be no significant revenue impact on the state or local government.

Mr. Reissig also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be providing a more effective means of obtaining information. This rule is adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no significant anticipated economic cost to individuals who are required to comply with the proposed rule.

Comments on the proposal may be submitted to Mike Borkland, Chief Hearings Attorney, Legal Services Division, P.O. Box 13528, Austin, Texas 78711.

This new section is proposed under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

This new section implements the Tax Code, §111.009 and §111.105.

§1.7. Content of Statement of Grounds; Preliminary Conference.

(a) The statement of grounds must contain the reasons the taxpayer disagrees with the action of the agency. The taxpayer must list and number the items, individually or by category, with which he disagrees, and list and number the factual and legal grounds why the tax should not be assessed or should be refunded. Legal authority must be cited if the taxpayer disagrees with the agency's interpretation of the law.

(b) If a taxpayer's statement of grounds raises issues that cannot be resolved from the material contained in the audit or statement of grounds, additional evidence may be obtained through:

- (1) a preliminary conference;
- (2) discovery as described in §1.33 of this title (relating to Discovery) ;
- (3) written or oral requests for additional evidence; and
- (4) an audit amendment.

(c) Time limits will be established for the completion of each of the procedures set out in subsection (b) of this section, either by agreement of the parties, or by the assigned administrative law judge if the parties cannot reach agreement.

(d) The statement of grounds may be amended up to the time that a reply to the position letter is required, and not later, unless by permission of the assigned administrative law judge, and unless all evidence on which the proving party intends to rely is filed with the proposed amendment.

(e) If the parties agree a preliminary conference would be beneficial, a conference will be scheduled as soon as practical.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

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Martin E. Cherry

Chief, General Law Section

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For further information, please call: (512) 463-4028

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34 TAC §1.10, §1.12

(Editor's Note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Comptroller of Public Accounts or in the Texas Register Office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Comptroller of Public Accounts proposes the repeal of §1.10 and §1.12, concerning acceptance or rejection of position letter, and motion to dismiss petition or set for hearing. The sections are being repealed in order to combine this information with a new section dealing with the same subject matter. The information contained in these sections may be found in §1.10, concerning acceptance or rejection of position letter and motion to dismiss petitioner or set for hearing.

Mike Reissig, chief revenue estimator, has determined that for the first five-year period the repeals will be in effect there will be no revenue impact on the state or local government.

Mr. Reissig also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the rules will be providing a more effective means of obtaining information. These repeals are adopted under the Tax Code, Title 2, and do not require a statement of fiscal implications for small businesses. There is no significant anticipated economic cost to individuals who are required to comply with the proposed repeals.

Comments on the proposal may be submitted to Mike Borkland, Chief Hearings Attorney, Legal Services Division, P.O. Box 13528, Austin, Texas 78711.

The repeals are proposed under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The repeals implement the Tax Code, §111.009 and §111.105.

§1.10. Acceptance or Rejection of Position Letter (Motion to Dismiss Petition or Set for Hearing).

§1.12. Motion to Dismiss Petition or Set for Hearing.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on September 10, 1996.

TRD-9613224

Martin E. Cherry
Chief, General Law Section
Comptroller of Public Accounts
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For further information, please call: (512) 463-4028



34 TAC §1.10

The Comptroller of Public Accounts proposes new §1.10, concerning acceptance or rejection of position letter; motion to dismiss petition or set for hearing. The comptroller has determined that rules of similar subject matter should be combined. The consolidation of rules will benefit the taxpayers of Texas and provide a more effective means of obtaining information. This new section consolidates §1.10, concerning acceptance or rejection of position letter and §1.12, concerning motion to dismiss petition or set for hearing.

Mike Reissig, chief revenue estimator, has determined that for the first five-year period the rule will be in effect there will be no significant revenue impact on the state or local government.

Mr. Reissig also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will in providing a more effective means of obtaining information. This rule is adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no significant anticipated economic cost to individuals who are required to comply with the proposed rule.

Comments on the proposal may be submitted to Mike Borkland, Chief Hearings Attorney, Legal Services Division, P.O. Box 13528, Austin, Texas 78711.

This new section is proposed under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The new section implements the Tax Code, §111.009 and §111.105.

§1.10. Acceptance or Rejection of Position Letter; Motion to Dismiss Petition or Set for Hearing.

(a) The taxpayer must accept or reject, in whole or in part, the position letter within 15 days after the day the position letter is dated; however, note the extension exception in §1.6(b) of this title (relating to Extensions of Time). A form for this purpose will be enclosed with the position letter. Expiration of the 15-day period without the taxpayer filing a motion to set or dismiss will result in the filing of a motion to dismiss the hearing and dispose of the case according to the tax division's position.

(b) The taxpayer is not required to respond to an amended determination or a final billing, other than by payment, unless the taxpayer disagrees with the amount of the amended determination or final billing. An amended final determination or final billing concludes the administrative proceeding unless the taxpayer notifies the agency within 20 days of the mailing date that he disagrees with the amount.

(c) The form enclosed with the position letter will offer the taxpayer three options.

(1) Motion to dismiss. The taxpayer may accept the conclusions of the position letter. The tax liability or refund will be calculated accordingly.

(2) Motion to set for written submission hearing. The taxpayer may reject some or all of the conclusions of the position letter and request that the contested issues be decided in a written submission hearing by an administrative law judge. The parties will submit documents and arguments in accordance with the notice of setting issued by the assigned administrative law judge, rather than appearing at an oral hearing.

(3) Motion to set for oral hearing.

(A) The taxpayer may reject some or all of the conclusions of the position letter and request that the contested issues be decided after an oral hearing before an administrative law judge.

(B) A taxpayer who believes it will require more than two hours for the parties to present their cases must file a written request for an extended hearing at the time the motion to set is filed, and state the reasons why more time will be required; however, any party may later request an extended hearing for good cause shown.

(d) In a Controlled Substances Tax case, the taxpayer will also be given the option of requesting an oral or written submissions hearing, but of holding the case in abeyance until the related criminal proceeding is concluded at the trial court level. An order of the trial court deferring adjudication will be deemed a conclusion of the trial court proceeding.

(e) The agency has the option of requesting an oral hearing in any case in which the burden of proof is on the state.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on September 10, 1996.

TRD-9613223

Martin E. Cherry

Chief, General Law Section

Comptroller of Public Accounts

Earliest possible date of adoption: October 21, 1996

For further information, please call: (512) 463-4028



34 TAC §§1.17, 1.21-1.26

(Editor's Note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Comptroller of Public Accounts or in the Texas Register Office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Comptroller of Public Accounts proposes the repeal of §§1.17, 1.21-1.26, concerning administrative law judge to hear case; conduct of hearing; rules of evidence; oral evidence, witnesses, and penalty for false statements; documentary evidence; evidence by official notice; and transcription of oral hearing. These sections are being repealed in order to combine this information with a new section dealing with the same subject matter. The information contained in these sections may be found in new §1.21, concerning oral hearings.

Mike Reissig, chief revenue estimator, has determined that for the first five-year period the repeals will be in effect there will be no revenue impact on the state or local government.

Mr. Reissig also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the rules will be providing a more effective means of obtaining information. These repeals are adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no significant anticipated economic cost to individuals who are required to comply with the proposed repeals.

Comments on the proposal may be submitted to Mike Borkland, Chief Hearings Attorney, Legal Services Division, P.O. Box 13528, Austin, Texas 78711.

The repeals are proposed under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The repeals implement the Tax Code, §111.009 and §111.105.

§1.17. *Administrative Law Judge to Hear Case.*

§1.21. *Conduct of Hearing.*

§1.22. *Rules of Evidence.*

§1.23. *Oral Evidence, Witnesses, and Penalty for False Statements.*

§1.24. *Documentary Evidence.*

§1.25. *Evidence by Official Notice.*

§1.26. *Transcription of Oral Hearings.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on September 10, 1996.

TRD-9613228

Martin E. Cherry

Chief, General Law Section

Comptroller of Public Accounts

Earliest possible date of adoption: October 21, 1996

For further information, please call: (512) 463-4028

34 TAC §1.18, §1.19

(Editor's Note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Comptroller of Public Accounts or in the Texas Register Office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Comptroller of Public Accounts proposes the repeal of §1.18 and §1.19, concerning filing of documents and inspection of file. The rules are being repealed in order to combine this information with existing rules dealing with the same subject matter. The information contained in these sections may be found in §1.18, concerning filing of documents and inspection of file.

Mike Reissig, chief revenue estimator, has determined that for the first five-year period the repeals will be in effect there will be no revenue impact on the state or local government.

Mr. Reissig also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the rules will be providing a more effective means of obtaining information. These repeals are adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no significant anticipated economic cost to individuals who are required to comply with the proposed repeals.

Comments on the proposal may be submitted to Mike Borkland, Chief Hearings Attorney, Legal Services Division, P.O. Box 13528, Austin, Texas 78711.

The repeals are proposed under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The repeals implement the Tax Code, §111.009 and §111.105.

§1.18. *Filing of Documents.*

§1.19. *Inspection of File.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on September 10, 1996.

TRD-9613226

Martin E. Cherry

Chief, General Law Section

Comptroller of Public Accounts

Earliest possible date of adoption: October 21, 1996

For further information, please call: (512) 463-4028

34 TAC §1.18

The Comptroller of Public Accounts proposes new §1.18, concerning filing of documents and inspection of file. The comptroller has determined that rules of similar subject matter should be combined. The consolidation of rules will benefit the taxpayers of Texas and provide a more effective means of obtaining information. This new section consolidates §1.18, concerning filing of documents and §1.19, concerning inspection of file.

Mike Reissig, chief revenue estimator, has determined that for the first five-year period the rule will be in effect there will be no significant revenue impact on the state or local government.

Mr. Reissig also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be providing a more effective means of obtaining information. This rule is adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no significant anticipated economic cost to individuals who are required to comply with the proposed rule.

Comments on the proposal may be submitted to Mike Borkland, Chief Hearings Attorney, Legal Services Division, P.O. Box 13528, Austin, Texas 78711.

This new section is proposed under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe,

adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

This new section implements the Tax Code, §111.009 and §111.105.

§1.18. Filing of Documents; Inspection of File.

(a) All documents submitted after the notice of setting has been issued must be filed with the assigned administrative law judge with a copy to each party. See §1.32 of this title (relating to Service) for the manner in which filings may be made.

(b) Each party to a contested case, and any authorized representative of a party, may inspect and copy, at their own expense and in the offices of the administrative law judges, all documents on file in the case, subject to the rules of confidentiality contained in the Tax Code.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on September 10, 1996.

TRD-9613225

Martin E. Cherry

Chief, General Law Section

Comptroller of Public Accounts

Earliest possible date of adoption: October 21, 1996

For further information, please call: (512) 463-4028



34 TAC §1.21

The Comptroller of Public Accounts proposes new §1.21, concerning oral hearings. The comptroller has determined that rules of similar subject matter should be combined. The consolidation of rules will benefit the taxpayers of Texas and provide a more effective means of obtaining information. This new section consolidates §1.21, concerning conduct of hearing, §1.17, concerning administrative law judge to hear case, §1.22, concerning rules of evidence, §1.23, concerning oral evidence, witnesses, and penalty for false statements, §1.24, concerning documentary evidence, §1.25, concerning evidence by official notice, and §1.26, concerning transcription of oral hearings.

Mike Reissig, chief revenue estimator, has determined that for the first five-year period the rule will be in effect there will be no significant revenue impact on the state or local government.

Mr. Reissig also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will in providing a more effective means of obtaining information. This rule is adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no significant anticipated economic cost to individuals who are required to comply with the proposed rule.

Comments on the proposal may be submitted to Mike Borkland, Chief Hearings Attorney, Legal Services Division, P.O. Box 13528, Austin, Texas 78711.

This new section is proposed under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe,

adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

This new section implements the Tax Code, §111.009 and §111.105.

§1.21. Oral Hearings.

(a) Administrative law judge to hear case. Hearings will be conducted by an administrative law judge who has authority to examine witnesses, to rule on motions, and to rule upon the admissibility of evidence. The administrative law judge has the authority to continue or recess any hearing, to control the record, and to propose decisions to the Comptroller of Public Accounts. If for any reason the assigned administrative law judge cannot continue on a contested case, another administrative law judge will become familiar with the record and perform any function remaining to be performed without the necessity of repeating any previous proceedings in the case.

(b) Conduct of hearing. The hearing will be convened by the assigned administrative law judge, appearances will be noted, any motions or preliminary matters will be taken up, and then each party will have the opportunity to present its case, generally on an issue-by-issue basis, by calling and examining witnesses, offering documentary evidence, and making legal arguments. Each party will have the opportunity to cross-examine opposing witnesses on any matter relevant to the issues even though the matter was not covered in direct examination. Any objection to testimony or evidentiary offers must be stated timely, along with the basis for the objection. The administrative law judge may question any party or any witness. The parties may agree to the order of proceeding or the administrative law judge may establish it, but in all cases, a taxpayer is entitled to conclude in presenting evidence and argument. The length of each hearing is limited to two hours; each party may use one hour to present its case. Upon a showing of good cause, the administrative law judge may schedule a hearing for a period longer than two hours. The administrative law judge is responsible for closing the record and may hold it open for stated purposes. Parties may submit proposed findings of fact any time after notice of setting and prior to the closing of the record. In an oral hearing, the administrative law judge may hold the record open to allow the parties to file proposed findings of fact.

(c) Rules of evidence. The rules of evidence promulgated by the Supreme Court of Texas apply to all oral hearings, except as provided by the Administrative Procedure Act, Texas Government Code, §2001 et. seq.

(d) Oral evidence, witnesses, and penalty for false statements. Any party may request the assigned administrative law judge to subpoena witnesses or require the production of documents related to the subject matter of the hearing, or the administrative law judge may do so independently. The administrative law judge may require the parties to indicate the persons they expect to call as witnesses. The testimony of witnesses will be made under oath or affirmation and the making of false statements may subject a person to criminal prosecution under the Penal Code, §37.02 and §37.03.

(e) Documentary evidence. Documentary evidence or exhibits will be marked for identification. Copies or excerpts of documents are permissible.

(f) Evidence by official notice. The administrative law judge may take official notice, on request of a party or acting independently,

of matters which trial judges can judicially notice and of facts within the specialized knowledge of the agency. The taking of official notice must be stated on the record, and the parties must have an opportunity to contest the material noticed. A party requesting the official notice must give sufficient information to enable the administrative law judge to comply.

(g) Transcription of oral hearings. All contested cases heard by an administrative law judge will be recorded. A copy of the recording will be furnished to any party to the proceeding upon written request to the administrative law judge and payment of a reasonable fee established by the agency. Any party desiring the hearing transcribed by a court reporter must make the necessary arrangements with the reporter and bear the cost.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

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TRD-9613227

Martin E. Cherry

Chief, General Law Section

Comptroller of Public Accounts

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For further information, please call: (512) 463-4028

34 TAC §1.37, §1.38

(Editor's Note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Comptroller of Public Accounts or in the Texas Register Office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Comptroller of Public Accounts proposes the repeal of §1.37 and §1.38, concerning joint hearings and severance. These sections are being repealed in order to combine this information with a new section dealing with the same subject matter. The information contained in these sections may be found in new §1.37, concerning joint hearings and severance.

Mike Reissig, chief revenue estimator, has determined that for the first five-year period the repeals will be in effect there will be no revenue impact on the state or local government.

Mr. Reissig also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the rules will be providing a more effective means of obtaining information. These repeals are adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no significant anticipated economic cost to individuals who are required to comply with the proposed repeals.

Comments on the proposal may be submitted to Mike Borkland, Chief Hearings Attorney, Legal Services Division, P.O. Box 13528, Austin, Texas 78711.

The repeals are proposed under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The repeals implement the Tax Code, §111.009 and §111.105.

§1.37. Joint Hearings.

§1.38. Severance.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

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Martin E. Cherry

Chief, General Law Section

Comptroller of Public Accounts

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For further information, please call: (512) 463-4028

34 TAC §1.37

The Comptroller of Public Accounts proposes new §1.37, concerning joint hearings and severance. The comptroller has determined that rules of similar subject matter should be combined. The consolidation of rules will benefit the taxpayers of Texas and provide a more effective means of obtaining information. This new section consolidates §1.37, concerning joint hearings and §1.38, concerning severance.

Mike Reissig, chief revenue estimator, has determined that for the first five-year period the rule will be in effect there will be no significant revenue impact on the state or local government.

Mr. Reissig also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be providing a more effective means of obtaining information. This rule is adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no significant anticipated economic cost to individuals who are required to comply with the proposed rule.

Comments on the proposal may be submitted to Mike Borkland, Chief Hearings Attorney, Legal Services Division, P.O. Box 13528, Austin, Texas 78711.

This new section is proposed under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

This new section implements the Tax Code, §111.009 and §111.105.

§1.37. Joint Hearings; Severance.

(a) A party may file a written motion to have two or more cases joined for purposes of hearing; or an assigned administrative law judge, acting independently, may join two or more cases. Proceedings involving more than one taxpayer may not be joined if any party objects. A motion for joinder must state the basis for joinder.

(b) Where two or more cases have been joined for purposes of hearing, a party may move to sever. Severance should be granted unless the hearing involves an issue which cannot be fully determined in the absence of one or more of the parties.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

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Martin E. Cherry

Chief, General Law Section

Comptroller of Public Accounts

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For further information, please call: (512) 463-4028



34 TAC §1.42

The Comptroller of Public Accounts proposes new §1.42, concerning definitions. The Comptroller has determined that rules of similar subject matter should be combined. The consolidation of rules will benefit the taxpayers of Texas and provide a more effective means of obtaining information. This new section consolidates §1.42, concerning definitions and §1.3, concerning contested cases.

Mike Reissig, chief revenue estimator, has determined that for the first five-year period the rule will be in effect there will be no significant revenue impact on the state or local government.

Mr. Reissig also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will in providing a more effective means of obtaining information. This rule is adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no significant anticipated economic cost to individuals who are required to comply with the proposed rule.

Comments on the proposal may be submitted to Mike Borkland, Chief Hearings Attorney, Legal Services Division, P.O. Box 13528, Austin, Texas 78711.

This new section is proposed under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

This new section implements the Tax Code, §111.009 and §111.105.

§1.42. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

Administrative law judge-An individual appointed by the comptroller to conduct hearings on matters within the comptroller's jurisdiction and to prepare proposed decisions to properly resolve such matters.

Agency-The Office of the Comptroller of Public Accounts.

Applicant-A party seeking a license or permit from the agency, or seeking an exemption.

Authorized representative-An individual who represents a party in a contested case and may be any individual other than the party.

Contested case or case-a proceeding in which the legal rights, duties, or privileges of a party are to be determined by the agency after

an opportunity for adjudicative hearing. It includes a request for redetermination or refund, as well as actions initiated by the agency to revoke or suspend permits or licenses administered by the agency on grounds other than failure to pay a final tax deficiency or failure to file a tax security. Contested cases are within the jurisdiction of the administrative law judges. Forfeitures of rights to do business, of certificates of authority, of articles of incorporation, or requests for or revocation of exemptions from taxation are not contested cases and are not within the jurisdiction of the administrative law judges.

Determination-A written notice from the agency that a person is required to pay to the State of Texas a tax, fee, penalty, or interest.

Hearings attorney-An attorney assigned to represent the tax division in a contested case.

Licensing-The agency process respecting the granting, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a permit.

Party-Any person filing a petition or claim with the agency or asked by the agency to respond; the agency, acting through its tax division; and any other person admitted as a party under §1.36 of this title (relating to Interested Parties).

Permit-The whole or any part of a license, certificate, approval, registration, or similar form of permission, the issuance, renewal, amendment, suspension or revocation of which is within the jurisdiction of the agency.

Person-Any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character. It may also include an estate, trust, receiver, assignee for benefit of creditors, trustee, trustee in bankruptcy, assignee, or any other group or combination acting as a unit.

Petition-A request for official action by the agency regarding the rights, duties or privileges accorded to the person making the request under a statute administered or enforced by the agency. If the request is made orally, it must subsequently be reduced to writing.

Petitioner, claimant, or taxpayer-Any person who files a petition seeking redetermination of a liability, a refund of monies paid, or determination of rights under any license or permit granted by the agency.

Pleading-Any document filed by a party concerning the position or assertions in a contested case.

Respondent or taxpayer-Any person to whom a notice of a show cause hearing for the suspension or revocation of a license has been issued.

Tax division-The divisions within the agency responsible for the particular action or actions that are the subject of the contested case.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

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Martin E. Cherry

Chief, General Law Section

Comptroller of Public Accounts

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For further information, please call: (512) 463-4028

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Chapter 3. Tax Administration

Subchapter F. Motor Vehicle Sales Tax

34 TAC §3.70, §3.79

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Comptroller of Public Accounts or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Comptroller of Public Accounts proposes the repeal of §3.70 and §3.79, concerning vehicles purchased and leased outside of Texas, and motor vehicle leases and sales. The comptroller has determined that the consolidation of sections dealing with similar subject matter will benefit taxpayers by providing a more effective means of obtaining information. The sections are being repealed in order to simplify the consolidation of related sections into a single section. The new §3.70, concerning motor vehicle leases and sales, includes the substance of the current §3.70 and §3.79.

Mike Reissig, chief revenue estimator, has determined that for the first five year period the repeals are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeals.

Mr. Reissig also has determined that for each year of the first five years the repeals are in effect there will be no cost or benefit to the public from the repeal of these rules. This repeals are adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There are no additional costs to persons who are required to comply with the repeal.

Comments on the repeals may be submitted to Karey W. Barton, Manager, Tax Policy Division, P.O. Box 13528, Austin, Texas 78711.

The repeals are proposed under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The repeals implement Tax Code, §111.002.

§3.70. *Leased Purchased Outside of Texas.*

§3.79. *Motor Vehicle Leases and Sales.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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TRD-9613209

Martin Cherry

Chief, General Law

Comptroller of Public Accounts

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For further information, please call: (512) 463-4062

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34 TAC §3.70

The Comptroller of Public Accounts proposes a new §3.70, concerning motor vehicle leases and sales. The comptroller has determined that the consolidation of sections dealing with similar subject matter will benefit taxpayers by providing a more effective means of obtaining information. Therefore, current §3.70 is being proposed for repeal. The new section consolidates the substance of the current §3.70, concerning vehicles purchased and leased outside of Texas and §3.79, concerning motor vehicle leases and sales.

Mike Reissig, chief revenue estimator, has determined that for the first five-year period the rule will be in effect there will be no significant revenue impact on the state or local government.

Mr. Reissig also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be in providing new information regarding tax responsibilities. This rule is adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no significant anticipated economic cost to individuals who are required to comply with the proposed rule.

Comments on the proposal may be submitted to Karey W. Barton, Manager, Tax Policy Division, P.O. Box 13528, Austin, Texas 78711.

The new section is proposed under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The new section implements the Tax Code, §§152.001, 152.002, 152.021, and 152.022.

§3.70. *Motor Vehicle Leases and Sales.*

(a) Motor vehicles which are purchased by a lessor to be leased are subject to motor vehicle sales or use tax based upon the purchase price of the motor vehicle to the lessor. Such tax is due from the lessor at the time of purchase. Subsequent lease payments are not subject to the tax.

(b) If, at the termination of a lease, a motor vehicle is sold by the lessor to the lessee and the lease contained an "option to purchase" at less than fair market value or a "must purchase" clause or if the vehicle is sold to the lessee at less than fair market value, the amount subject to the motor vehicle sales and use tax will be the total consideration paid the lessor by the lessee under the agreement, since it will be considered a sale rather than a lease agreement. "Total consideration" means the amount paid or to be paid for a motor vehicle and all accessories attached to it at the time of the sale; it does not include separately stated finance charges, carrying charges, service charges or interest.

(c) If the transaction is considered to be a sale and not a lease, as described in subsection (b) of this section, no additional motor vehicle sales tax is due at the time the lessee takes title to the vehicle, provided the correct amount of tax was previously paid on the total consideration. If the correct amount of tax was not paid on the total consideration, the lessee must pay the difference when the vehicle is titled in his name.

(d) If the motor vehicle is sold to a person not privy to the lease or if it is sold to the lessee at fair market value, the amount

subject to the motor vehicle sales and use tax would be the agreed-upon sales price. (See Attorney General Opinion WW-711 (1959).)

(e) The motor vehicle use tax is due on motor vehicles purchased outside the State of Texas and leased and brought into the state for use upon the highway. The lessee of the motor vehicle is liable for such tax if he is a resident of this state or is domiciled or doing business in this state. The tax is based upon the consideration paid outside the state by the purchaser of the motor vehicle, regardless of any use or depreciation of the vehicle subsequent to its purchase and prior to its use in this state.

(f) A credit is allowed to a lessee who has paid or whose lessor has paid legally imposed tax with respect to a motor vehicle to another state and thereafter that vehicle becomes subject to the Texas motor vehicle use tax.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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Martin Cherry

Chief, General Law

Comptroller of Public Accounts

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For further information, please call: (512) 463-4062

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Subchapter J. Petroleum Products Delivery Fee

34 TAC §3.151, §3.152

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Comptroller of Public Accounts or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Comptroller of Public Accounts proposes the repeal of §3.151 and §3.152, concerning bonds and other security for fees, and imposition and collection of the fee. The comptroller has determined that the consolidation of sections dealing with similar subject matter will benefit fee payers by providing a more effective means of obtaining information. The sections are being repealed in order to simplify the consolidation of related sections into a single section. The new §3.151, concerning imposition, collection, and bonds or other security of the fee, includes the substance of the current §3.151 and §3.152.

Mike Reissig, chief revenue estimator, has determined that for the first five year period the repeals are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeals.

Mr. Reissig also has determined that for each year of the first five years the repeals are in effect there will be no cost or benefit to the public from the repeal of these rules. This repeals are adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There are no additional costs to persons who are required to comply with the repeals.

Comments on the repeals may be submitted to Karey W. Barton, Manager, Tax Policy Division, P.O. Box 13528, Austin, Texas 78711.

The repeals are proposed under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The repeals implement Tax Code, §111.002.

§3.151. *Bonds and Other Security for Fees.*

§3.152. *Imposition and Collection of the Fee.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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Martin Cherry

Chief, General Law

Comptroller of Public Accounts

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For further information, please call: (512) 463-4062

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34 TAC §3.151

The Comptroller of Public Accounts proposes a new §3.151, concerning imposition, collection, and bonds or other security of the fee. The comptroller has determined that the consolidation of sections dealing with similar subject matter will benefit fee payers by providing a more effective means of obtaining information. Therefore, current §3.151, concerning bonds and other security for fees, is being proposed for repeal. The new section consolidates the substance of the current §3.151 with §3.152, concerning imposition and collection of the fee.

Mike Reissig, chief revenue estimator, has determined that for the first five-year period the rule will be in effect there will be no significant revenue impact on the state or local government.

Mr. Reissig also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be in providing new information regarding tax responsibilities. This rule is adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no significant anticipated economic cost to individuals who are required to comply with the proposed rule.

Comments on the proposal may be submitted to Karey W. Barton, Manager, Tax Policy Division, P.O. Box 13528, Austin, Texas 78711.

The new section is proposed under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The new section implements the Water Code, §26.3574.

§3.151. *Imposition, Collection, and Bonds or Other Security of the Fee.*

(a) The Texas Petroleum Products Delivery Fee is imposed, collected, and paid to the state by operators of bulk facilities. The

fee is assessed when petroleum products are withdrawn from the bulk facility and delivered into a cargo tank or barge or imported into this state in a cargo tank or barge for delivery to another location for distribution or sale. The fee is not assessed when the fuel is destined for delivery to another bulk facility, an electrical generating plant, a common carrier railroad for its exclusive use, or is to be exported from the state.

(b) For the purposes of this section, withdrawals from a bulk facility into a cargo tank or barge are not subject to the fee when the entire withdrawal is delivered into the fuel supply tanks of vessels or boats.

(c) The fee is collected by the operator of a bulk facility from the person ordering the withdrawal. The fee is computed as follows:

(1) \$25 for each delivery into a cargo tank or barge having a capacity of less than 2,500 gallons;

(2) \$50 for each delivery into a cargo tank or barge having a capacity of 2,500 gallons or more but less than 5,000 gallons;

(3) \$75 for each delivery into a cargo tank or barge having a capacity of 5,000 gallons or more but less than 8,000 gallons;

(4) \$100 for each delivery into a cargo tank or barge having a capacity of 8,000 gallons or more but less than 10,000 gallons; and

(5) a \$50 fee for each increment of 5,000 gallons or any part thereof delivered into a cargo tank or barge having a capacity of 10,000 gallons or more.

(d) In determining the amount of fee due for motor gasoline, other alcohol blended fuels, and aviation gasoline, each net temperature corrected withdrawal of 7,000 gallons or more but less than 10,000 gallons shall be presumed to have been a delivery into a cargo tank having a capacity of 8,000 gallons or more but less than 10,000 gallons and the fee shall be collected as provided by subsection (c)(4) of this section.

(e) In determining the amount of fee due on all withdrawals not covered by subsection (d) of this section, it shall be presumed that the capacity of the cargo tank or barge is equal to the total net temperature corrected quantity of product withdrawn.

(f) For the purposes of this section, a bulk facility is a refinery terminal or any other terminal or facility which receives petroleum products by pipeline, rail, or barge, and delivers the products into a cargo tank or barge.

(g) For the purposes of this section, the operator of a bulk facility is the person who first invoices petroleum products withdrawn from the facility. An exchange statement is not considered an invoice.

(h) For the purposes of this section, an electrical generating facility is a plant operated for the primary purpose of generating electricity for sale to consumers.

(i) Persons exempt from the petroleum products delivery fee, including persons operating barges who make withdrawals from a permitted bulk facility for delivery into the fuel supply tanks of vessels or boats, shall request in writing a letter of exemption from the comptroller. The letter of exemption issued by the comptroller, or a copy, must be furnished to the seller each time purchases exempt from the petroleum products delivery fee are made.

(j) If the person making the sale to the exempt purchaser does not hold a petroleum products delivery fee permit, the purchaser must also furnish to the seller a statement listing the date of purchase, number of gallons purchased per delivery, and destination of the product. For the seller to receive credit for exempt sales, this documentation must be presented to the permitted bulk facility from which the product was purchased.

(k) The amount of the petroleum products delivery fee must be listed as a separate item on the invoice or cargo manifest issued by the person holding a permit to collect the fee upon the withdrawal of product from a bulk facility.

(l) Only persons who hold a petroleum products delivery fee permit may charge and collect the fee on the basis of the bracket system established in this section. No other persons selling fuel may list the fee as a separate item on invoices or manifest except:

(1) when required to do so by another governmental agency; or

(2) when an amount is clearly identified as reimbursement. An amount collected as reimbursement may not exceed the amount of fee actually paid by the person issuing the manifest or invoice.

(m) The comptroller may require a bulk facility operator to post a bond or other security to protect the revenues of the state.

(n) When determining the security required of a bulk facility operator, the comptroller will take into consideration the amount of fee that has or is expected to become due from the person, any past history of the person as a distributor or supplier of fuel, and the necessity to protect the state against the failure to pay the fee as it becomes due.

(o) The comptroller may require a bond equal to two times the highest amount of fees that will accrue during a reporting period. The minimum bond is \$30,000. The maximum bond is \$600,000 unless the comptroller believes there is undue risk of loss of fee revenues, in which event he may require one or more bond or securities in a total amount exceeding \$600,000.

(p) If the comptroller determines that a bulk facility operator has for four consecutive years continuously complied with the conditions of the bond or other security on file, the operator is entitled on request to have the comptroller return, refund, or release the bond or security. However, if the comptroller determines that the revenues of the state would be jeopardized by the return, refund, or release of the bond or security, the comptroller may elect not to return, refund, or release the bond or security. The comptroller may reimpose a requirement of a bond or other security if necessary to protect the revenues of the state.

(q) A bond must be a continuing instrument, must constitute a new and separate obligation in the penal sum named in the bond for each calendar year or portion of a year while the bond is in force, and must remain in effect until the surety on the bond is released and discharged.

(r) In lieu of filing a surety bond, an applicant for a permit may substitute the following security:

(1) cash in the form of United States currency in an amount equal to the required bond, to be deposited in the suspense account of the state treasury;

(2) an assignment to the comptroller of a certificate of deposit in any bank or savings and loan association in Texas that is a member of the FDIC in an amount equal to the bond amount required; or

(3) an irrevocable letter of credit to the comptroller from any bank or savings and loan association in Texas that is a member of the FDIC in an amount of credit at least equal to the bond amount required.

(s) If the amount of an existing bond becomes insufficient or a security becomes unsatisfactory or unacceptable, the comptroller may require the filing of a new or of an additional bond or security.

(t) No surety bond or other form of security may be released until it is determined by examination or audit that no fee, penalty, or interest liability exists. The cash or securities shall be released within 60 days after the comptroller determines that no liability exists.

(u) The comptroller may use the cash or certificate of deposit security to satisfy a final determination of delinquent liability or a judgment secured in any action by this state to recover fees, cost, penalties, and interest found to be due this state by a person in whose behalf the cash or certificate security was deposited.

(v) A surety on a bond furnished by a permittee shall be released and discharged from liability to the state accruing on the bond after the expiration of 30 days after the date on which the surety files with the comptroller a written request to be released and discharged. The request does not relieve, release, or discharge the surety from a liability already accrued, or that accrues before the expiration of the 30-day period. Promptly after receipt of the request, the comptroller shall notify the permittee who furnished the bond, and unless the permittee, before the expiration date of the existing security, files with the comptroller a satisfactory new bond or other security, the comptroller shall cancel the permit.

(w) The comptroller shall notify immediately the issuer of a letter of credit of a final determination of the bulk facility operator's delinquent liability or a judgment secured in any action by this state to recover fees, cost, penalties, and interest found to be due this state by a bulk facility operator in whose behalf the letter of credit was issued. A letter of credit accepted as security shall contain a statement that the issuer agrees to respond to the comptroller's notice of liability with amounts sufficient to satisfy the comptroller's delinquency claim against the bulk facility operator.

(x) An examination or audit may be requested to obtain release of the security when the permit holder relinquishes the permit or desires to substitute one form of security for an existing one.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Issued in Austin, Texas, on September 10, 1996.

TRD-9613206

Martin Cherry

Chief, General Law

Comptroller of Public Accounts

Earliest possible date of adoption: October 21, 1996

For further information, please call: (512) 463-4062

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Subchapter L. Motor Fuels Tax

34 TAC §3.187

The Comptroller of Public Accounts proposes an amendment to §3.187, concerning documentation and reporting of exports and export sales by distributors and suppliers. The documentation required from common and contract carriers is being amended to include the same requirements and language as found in §3.173, concerning refunds on gasoline and diesel fuel tax.

Mike Reissig, chief revenue estimator, has determined that for the first five-year period the rule will be in effect there will be no significant revenue impact on the state or local government.

Mr. Reissig also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be in providing new information regarding tax responsibilities. This rule is adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no significant anticipated economic cost to individuals who are required to comply with the proposed rule.

Comments on the proposal may be submitted to Karey W. Barton, Manager, Tax Policy Division, P.O. Box 13528, Austin, Texas 78711.

The amendment is proposed under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The amendment implements the Tax Code, §153.104 and §153.203.

§3.187. Documentation and Reporting of Exports and Export Sales by Distributors and Suppliers.

(a) (No change.)

(b) Documentation.

(1) Common, contract carriers. The documents for the distributor's or supplier's records, in addition to other records required, must be supported by the bill of lading issued by the common or contract carrier, ocean-going vessel or barge **listing the consignor and consignee, the points of origin and destination, the number of gallons shipped or transported, the date of export, and the kind of fuel exported** [covering the transaction and delivery of the fuel to a point outside the State of Texas].

(2) (No change.)

(c) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Issued in Austin, Texas, on September 10, 1996.

TRD-9613210

Martin Cherry

Chief, General Law

Comptroller of Public Accounts

Earliest possible date of adoption: October 21, 1996

For further information, please call: (512) 463-4062

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Subchapter O. State Sales and Use Tax

34 TAC §3.293

The Comptroller of Public Accounts proposes an amendment to §3.293, concerning food; food products; meals; food service. The comptroller has determined that the consolidation of sections dealing with similar subject matter will benefit taxpayers by providing a more effective means of obtaining information. The amendment adds the substance of subsection (d) of the current §3.320, concerning ice and dry ice, as subsection (f)(7) of this section. The current §3.320 is being repealed.

Mike Reissig, chief revenue estimator, has determined that for the first five-year period the rule will be in effect there will be no significant revenue impact on the state or local government.

Mr. Reissig also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be in providing new information regarding tax responsibilities. This rule is adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no significant anticipated economic cost to individuals who are required to comply with the proposed rule.

Comments on the proposal may be submitted to Karey W. Barton, Manager, Tax Policy Division, P.O. Box 13528, Austin, Texas 78711.

The amendment is proposed under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The amendment implements the Tax Code, §§151.314, 151.305, and 151.007.

§3.293. Food; Food Products; Meals; Food Service.

(a)-(b) (No change.)

(c) Exempt sales.

(1) (No change.)

(2) Food sales by schools, school-associated groups, and state institutions. For the purposes of this paragraph, food includes soft drinks and candy but does not include alcoholic beverages. Tax is not due on the sale of food when:

(A)-(F) No change.

(G) [the food or meal is] provided at no cost to inmates by correctional facilities as part of the inmates' incarceration.

(3) (No change.)

(d)-(e) (No change.)

(f) Responsibilities of persons who operate restaurants and like places of business, caterers, wedding or bridal consultants, and others selling food ready for immediate consumption (food service operators).

(1)-(6) (No change.)

(7) **Sales or use tax is not due on ice purchased for use as a part of a drink or food product to be sold in the regular**

course of business. Ice used to maintain food for immediate consumption in a cool state prior to sale is taxable.

(8)[(7)] For information on tips and gratuities see §3.337 of this title (relating to Gratuities).

(9)[(8)] For information on the responsibilities of persons who sell and serve mixed beverages see §3.289 of this title (relating to Alcoholic Beverages Exemptions).

(g)-(i) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Issued in Austin, Texas, on September 10, 1996.

TRD-9613160

Martin Cherry

Chief, General Law

Comptroller of Public Accounts

Earliest possible date of adoption: October 21, 1996

For further information, please call: (512) 463-4062

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34 TAC §3.300

The Comptroller of Public Accounts proposes an amendment to §3.300, concerning manufacturing; custom manufacturing; fabricating; processing. The comptroller has determined that the consolidation of sections dealing with similar subject matter will benefit taxpayers by providing a more effective means of obtaining information. The amendment adds the substance of subsection (a)(1) of the current §3.320, concerning ice and dry ice, as subsection (d)(3)(A) of this section. The current §3.320 is being repealed.

Mike Reissig, chief revenue estimator, has determined that for the first five-year period the rule will be in effect there will be no significant revenue impact on the state or local government.

Mr. Reissig also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be in providing new information regarding tax responsibilities. This rule is adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no significant anticipated economic cost to individuals who are required to comply with the proposed rule.

Comments on the proposal may be submitted to Karey W. Barton, Manager, Tax Policy Division, P.O. Box 13528, Austin, Texas 78711.

The amendment is proposed under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The amendment implements the Tax Code, §§151.005, 151.007, and 151.318.

§3.300. Manufacturing; Custom Manufacturing; Fabricating; Processing.

(a)-(c) (No change.)

(d) Exempt manufacturing items.

(1)-(2) (No change.)

(3) Necessary and essential materials.

(A) Materials that are necessary or essential to the operation of machinery or equipment used in the actual manufacturing process are exempt. All materials which are directly used or consumed in any phase of the actual manufacturing, processing, or fabricating operation are exempt if they are necessary or essential to the operation. For example, lubricants consumed in the operation of machinery or equipment used in the actual manufacturing process, explosives used to blast granite or other material from the earth for further processing and sale, **ice used during processing or manufacturing that is necessary and essential to the process**, any material which is used or consumed in a process to remove impurities, to achieve quality control, to cause a physical or chemical change in a product, or otherwise make the product more marketable are exempt. Materials used to test the quality of the product after the manufacturing process is complete are not exempt.

(B)-(D) (No change.)

(4)-(7) (No change.)

(e)-(j) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Issued in Austin, Texas, on September 10, 1996.

TRD-9613161

Martin Cherry

Chief, General Law

Comptroller of Public Accounts

Earliest possible date of adoption: October 21, 1996

For further information, please call: (512) 463-4062



34 TAC §3.305

(Editor's Note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Comptroller of Public Accounts or in the Texas Register Office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Comptroller of Public Accounts proposes the repeal of §3.305, concerning bottlers. The comptroller has determined that the consolidation of sections of similar subject matter will benefit the taxpayers by providing a more effective means of obtaining information. The information contained in this section may be found in 34 TAC §3.286, concerning seller's and purchaser's responsibilities and 34 TAC §3.300, concerning manufacturing; custom manufacturing; fabricating; processing.

Mike Reissig, chief revenue estimator, has determined that for the first five-year period the repeal will be in effect there will be no revenue impact on the state or local government.

Mr. Reissig also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the rule will be providing a more effective means of obtaining information. This repeal is adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no significant

anticipated economic cost to individuals who are required to comply with the proposed repeal.

Comments on the proposal may be submitted to Karey W. Barton, Manager, Tax Policy Division, P.O. Box 13528, Austin, Texas 78711.

This repeal is proposed under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The repeal implements the Tax Code, §111.002.

§3.305. *Bottlers.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on September 10, 1996.

TRD-9613233

Martin E. Cherry

Chief, General Law Section

Comptroller of Public Accounts

Earliest possible date of adoption: October 21, 1996

For further information, please call: (512) 463-4028



34 TAC §3.314

The Comptroller of Public Accounts proposes an amendment to §3.314, concerning wrapping, packing, packaging supplies, containers, labels, tags, export packers, and stevedoring materials and supplies. The comptroller has determined that the consolidation of sections dealing with similar subject matter will benefit taxpayers by providing a more effective means of obtaining information. The amendment adds the substance of subsection (a)(2) of §3.320, concerning ice and dry ice, as subsection (b)(4) of this section. The current §3.320 is being repealed.

Mike Reissig, chief revenue estimator, has determined that for the first five-year period the rule will be in effect there will be no significant revenue impact on the state or local government.

Mr. Reissig also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be in providing new information regarding tax responsibilities. This rule is adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no significant anticipated economic cost to individuals who are required to comply with the proposed rule.

Comments on the proposal may be submitted to Karey W. Barton, Manager, Tax Policy Division, P.O. Box 13528, Austin, Texas 78711.

The amendment is proposed under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The amendment implements the Tax Code, §§151.151, 151.302, 151.322, and 151.329.

§3.314. *Wrapping, Packing, Packaging Supplies, Containers, Labels, Tags, Export Packers, and Stevedoring Materials and Supplies.*

(a) (No change.)

(b) Manufacturers.

(1)-(3) (No change.)

(4) **Sales or use tax is not due on ice used by manufacturers and processors inside or outside a package in order to shape, form, preserve, stabilize, or protect the contents of the manufactured product.**

(c)-(j) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Issued in Austin, Texas, on September 10, 1996.

TRD-9613162

Martin Cherry

Chief, General Law

Comptroller of Public Accounts

Earliest possible date of adoption: October 21, 1996

For further information, please call: (512) 463-4062



Part V. Texas County and District Retirement System

Chapter 103. Calculations or Types of Benefits

34 TAC §103.4

The Texas County and District Retirement System proposes new §103.4, concerning the years of a member's attained age to be used in the determination of a member's eligibility to retire and receive a service retirement annuity. Specifically, under §844.210(c)(2) and §844.211(c)(1) of the Texas Government Code, a member may become eligible to retire and receive a service retirement annuity if the total of the member's years of credited service when added to the member's years of attained age equals or exceeds a certain sum. The proposed rule defines the phrase "years of a member's attained age" to mean whole years of attained age. Partial years of age are not considered in the calculation for retirement eligibility. This proposed rule is for purposes of clarification only and does not change, alter or affect the manner in which the retirement eligibility of a member has been or will be determined.

Terry Horton, Director of the Texas County and District Retirement System, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Horton also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the elimination of confusion on the part of members relating to the method of determining their retirement eligibility. There will be no effect on small businesses. There is no anticipated economic cost to persons required to comply with the section as proposed.

Comments on the proposal may be submitted to Terry Horton, Director, Texas County and District Retirement System, P.O. Box 2034, Austin, Texas 78768-2034.

The amendment is proposed under Government Code, §845.102 which authorizes the board of trustees of the Texas County and District Retirement System to adopt rules necessary or desirable for the effective administration of the System.

The Government Code, §844.210(c)(2) and §844.211(c)(1) are affected by this amendment.

§103.4. *Years of Attained Age.*

For purposes of determining the eligibility of a member to retire and receive a service retirement annuity pursuant to §844.210(c)(2) or §844.211(c)(1), the phrase "years of a member's attained age" means whole years of attained age. Partial years of age shall not be considered in the calculation for retirement eligibility.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on September 10, 1996.

TRD-9613182

Terry Horton

Director

Texas County and District Retirement System

Proposed date of adoption: December 9, 1996

For further information, please call: (512) 328-8889



Chapter 107. Miscellaneous Rules

34 TAC §107.4

The Texas County and District Retirement System proposes new §107.4, concerning the limitations on the payment of benefits under §844.008 of the Texas Government Code. Specifically, those statutory limitations conform to the limitations under §415 of the Internal Revenue Code as in effect prior to the enactment of Public Law 104-188, and were adopted to maintain the status of the Texas County and District Retirement System as a qualified plan under the Internal Revenue Code. The amendments to §415 now exempt governmental plans from benefit limitations based on a member's average compensation and from benefit reductions based on the ages of disabled retirees and deceased members. Section 844.008(j) authorizes the board of trustees to eliminate by rule those limitations provided in §844.008 which are not required of governmental plans to constitute qualified plans. This proposed new section causes the Texas County and District Retirement System to operate in conformity with those limitations on the payment of benefits applicable to qualified governmental plans under §415 of the Internal Revenue Code.

Terry Horton, Director of the Texas County and District Retirement System, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Horton also has determined that for each year of the first five years the section is in effect the public benefit anticipated

as a result of enforcing the section will be that persons retiring under the System will receive their full accrued benefit to the extent that such benefit does not exceed the limitations of §415 of the Internal Revenue Code as amended by Public Law 104-188. There will be no effect on small businesses. There is no anticipated economic cost to persons required to comply with the sections as proposed.

Comments on the proposal may be submitted to Terry Horton, Director, Texas County and District Retirement System, P.O. Box 2034, Austin, Texas 78768-2034.

The new is authorized under Government Code, §844.008(j) which allows the board of trustees of the Texas County and District Retirement System to act by rule in this matter, and is proposed for adoption under Government Code, §845.102 which provides the board of trustees with the authority to adopt rules necessary or desirable for the effective administration of the System.

The Government Code, §844.008 is affected by this amendment.

§107.4. Conformity with Internal Revenue Code: Preservation of Benefits.

Pursuant to the authority of the board of trustees to act by rule under §844.008(j), and in accordance with §415 of the Internal Revenue Code as amended by Public Law 104-188, the annual benefit payable under Subtitle F of Title 8 of the Texas Government Code (the 'Act') shall not be reduced under §844.008 of the Act except in conformity with those limitations on the payment of benefits as set forth in

the Internal Revenue Code and as that Code applies from time to time to the Texas County and District Retirement System. For years beginning after December 31, 1994:

(1) The limitation on the payment of benefits by the retirement system on behalf of a person who has retired under the Act shall be determined without regard to §844.008(d)(2).

(2) The limitation on the payment of benefits by the retirement system to:

(A) the survivor, beneficiary, or estate of any deceased former member; or

(B) a former member who has retired under the disability retirement provisions of the Act shall be determined without regard to §844.008(d)(2) and §844.008(e).

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on September 10, 1996.

TRD-9613183

Terry Horton

Director

Texas County and District Retirement System

Proposed date of adoption: December 9, 1996

For further information, please call: (512) 328-8889

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ADOPTED RULES

An agency may take final action on a section 30 days after a proposal has been published in the ***Texas Register***. The section becomes effective 20 days after the agency files the correct document with the ***Texas Register***, unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice.

If an agency adopts the section without any changes to the proposed text, only the preamble of the notice and statement of legal authority will be published. If an agency adopts the section with changes to the proposed text, the proposal will be republished with the changes.

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

Chapter 11. Surface Mining and Reclamation Division

Subchapter D. Coal Mining

16 TAC §11.221

The Railroad Commission of Texas adopts an amendment to §11.221, concerning the general requirements on timing of backfilling and grading, without change to the proposed text as published in the August 6, 1996, issue of the *Texas Register* (21 TexReg 7309).

The text of §11.221 incorporates the rules on backfilling and grading by reference. The text of the adopted rules that is incorporated into §11.221 by reference may be obtained from the Surface Mining and Reclamation Division, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas.

Texas Utilities Services and the Aluminum Company of America commented in support of the proposed amendment. No other comments were received.

The amendment is adopted pursuant to the Texas Natural Resources Code, §134.013 which provides the commission the authority to promulgate rules pertaining to surface coal mining operations.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 10, 1996.

TRD-9613248

Mary Ross McDonald

Deputy General Counsel, Office of General Counsel

Railroad Commission of Texas

Effective date: October 1, 1996

Proposal publication date: August 6, 1996

For further information, please call: (512) 463-7008



Part VIII. Texas Racing Commission

Chapter 303. General Provisions

Subchapter B. Powers and Duties of the Commission

16 TAC §303.41

The Texas Racing Commission adopts an amendment to §303.41, concerning the allocation of race dates to pari-mutuel racetracks, without changes to the proposed text published in the July 2, 1996 issue of the *Texas Register* (21 TexReg 6064).

The amendment is adopted to ensure that the commission's administrative procedures for allocating race dates will be efficient, effective, and fair to all interested parties.

The amendment modifies the procedure for a racetrack to request changes to its race date schedule after the date allocation has already been acted on by the commission.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; §8.01, which authorizes the commission to allocate race dates for horse racetracks; §10.01, which authorizes the commission to allocate race dates for greyhound racetracks; and Texas Government Code, §2001.004, which authorizes the commission to adopt rules of practice for all formal and informal procedures.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 9, 1996.

TRD-9613120

Paula Cochran Carter

General Counsel

Texas Racing Commission

Effective date: October 1, 1996

Proposal publication date: July 2, 1996

For further information, please call: (512) 833-6699



Chapter 309. Operation of Racetracks

Subchapter B. Horse Racetracks

Operations

16 TAC §309.202

The Texas Racing Commission adopts new §309.202, concerning horsemen's representatives, without changes to the proposed text published in the July 2, 1996 issue of the *Texas Register* (21 TexReg 6064).

The new section is adopted to ensure that the participants in pari-mutuel horse racing in this state will have a voice in regulatory and racetrack operational matters that affect them.

The new section establishes the procedure for recognizing a statewide organization to represent horsemen and specifies the responsibilities and authority of a recognized organization.

Oral comments were received from Lone Star Park at Grand Prairie regarding adoption of the new section. The commenter suggested modifying the section to change the items on which the organization was authorized to negotiate with pari-mutuel racetracks. The Commission disagrees with the comments on the grounds that the suggested changes would constitute a significant modification from the proposed text inappropriate for final adoption.

The new section is adopted under the Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; §6.06, which authorizes the Commission to adopt rules on all matters relating to the operation of racetracks; and Texas Government Code, §2001.004, which authorizes the commission to adopt rules of practice for all formal and informal procedures.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 9, 1996.

TRD-9613121

Paula Cochran Carter

General Counsel

Texas Racing Commission

Effective date: October 1, 1996

Proposal publication date: July 2, 1996

For further information, please call: (512) 833-6699



Chapter 313. Officials and Rules of Horse Racing

Subchapter A. Officials

Duties of Stewards

16 TAC §313.25

The Texas Racing Commission adopts an amendment to §313.25, concerning the stewards' list, without changes to the proposed text published in the July 2, 1996 issue of the *Texas Register* (21 TexReg 6065).

The amendment is adopted to ensure pari-mutuel horse racing will be safe for the race horses and the participants.

The amendment modifies the effect of placing a horse on the stewards' list on the horse's eligibility to participate in a race.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; and §6.06, which authorizes the commission to adopt rules on all matters relating to the operation of racetracks.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 9, 1996.

TRD-9613122

Paula Cochran Carter

General Counsel

Texas Racing Commission

Effective date: October 1, 1996

Proposal publication date: July 2, 1996

For further information, please call: (512) 833-6699



Duties of Other Officials

16 TAC §313.49

The Texas Racing Commission adopts an amendment to §313.49, concerning the starter's list, without changes to the proposed text published in the July 2, 1996 issue of the *Texas Register* (21 TexReg 6066).

The amendment is adopted to ensure pari-mutuel horse racing will be safe for the race horses and the participants.

The amendment modifies the effect of placing a horse on the starter's list on the horse's eligibility to participate in a race.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; and §6.06, which authorizes the commission to adopt rules on all matters relating to the operation of racetracks.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 9, 1996.

TRD-9613123

Paula Cochran Carter

General Counsel

Texas Racing Commission

Effective date: October 1, 1996

Proposal publication date: July 2, 1996
For further information, please call: (512) 833-6699

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Chapter 319. Veterinary Practices and Drug Testing

Subchapter B. Treatment of Horses

16 TAC §319.102

The Texas Racing Commission adopts an amendment to §319.102, concerning the veterinarian's list, without changes to the proposed text published in the July 2, 1996 issue of the *Texas Register* (21 TexReg 6066).

The amendment is adopted to ensure pari-mutuel horse racing will be safe for the race horses and the participants.

The amendment modifies the effect of placing a horse on the veterinarian's list on the horse's eligibility to participate in a race.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; §6.06, which authorizes the commission to adopt rules on all matters relating to the operation of racetracks; and §14.03, which authorizes the commission to adopt rules to prohibit the illegal influencing of the outcome of a race.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 9, 1996.

TRD-9613124
Paula Cochran Carter
General Counsel
Texas Racing Commission
Effective date: October 1, 1996
Proposal publication date: July 2, 1996
For further information, please call: (512) 833-6699

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16 TAC §319.111

The Texas Racing Commission adopts an amendment to §319.111, concerning the bleeder and furosemide (Lasix) program, without changes to the proposed text published in the July 2, 1996 issue of the *Texas Register* (21 TexReg 6067).

The amendment is adopted to ensure pari-mutuel horse racing will be safe for the race horses and the participants.

The amendment modifies the effect of placing a horse on the bleeder's list on the horse's eligibility to participate in a race.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt

rules for conducting racing with wagering and for administering the Texas Racing Act; §6.06, which authorizes the commission to adopt rules on all matters relating to the operation of racetracks; and §14.03, which authorizes the commission to adopt rules to prohibit the illegal influencing of the outcome of a race.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 9, 1996.

TRD-9613125
Paula Cochran Carter
General Counsel
Texas Racing Commission
Effective date: October 1, 1996
Proposal publication date: July 2, 1996
For further information, please call: (512) 833-6699

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Chapter 321. Pari-mutuel Wagering

Subchapter A. Regulation and Totalisator Operations

Mutuel Tickets

16 TAC §321.38

The Texas Racing Commission adopts an amendment to §321.38, concerning cancellation of mutuel tickets, without changes to the proposed text published in the July 2, 1996 issue of the *Texas Register* (21 TexReg 6067).

The amendment is adopted to ensure that pari-mutuel wagering will be fair to the patrons, while maintaining its high integrity.

The amendment modifies the general prohibition on canceling mutuel tickets and clarifies the circumstances under which mutuel tickets may or must be canceled.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; and §11.01, which authorizes the commission to adopt rules to regulate pari-mutuel wagering.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 9, 1996.

TRD-9613126
Paula Cochran Carter
General Counsel
Texas Racing Commission
Effective date: October 1, 1996
Proposal publication date: July 2, 1996
For further information, please call: (512) 833-6699

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Subchapter C. Simulcast Wagering

General Provisions

16 TAC §321.204

The Texas Racing Commission adopts an amendment to §321.204, concerning the approval of wagering on simulcast races, without changes to the proposed text published in the July 2, 1996 issue of the *Texas Register* (21 TexReg 6068).

The amendment is adopted to ensure that the commission's procedures for approving simulcast signals will operate efficiently and effectively.

The amendment changes the deadline for filing a request for approval of the simulcast signal of a race of national or historic interest.

No comments were received regarding the proposal.

The amendment is adopted under the Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; §6.06, which authorizes the commission to adopt rules on all matters relating to the operation of racetracks; §11.01, which authorizes the commission to adopt rules to regulate pari-mutuel wagering; and §11.011, which authorizes the commission to adopt rules to regulate pari-mutuel wagering on simulcast races.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 9, 1996.

TRD-9613127

Paula Cochran Carter

General Counsel

Texas Racing Commission

Effective date: October 1, 1996

Proposal publication date: July 2, 1996

For further information, please call: (512) 833-6699

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TITLE 22. EXAMINING BOARDS

Part XVIII. Texas State Board of Podiatric Medical Examiners

Chapter 371. Examinations

22 TAC §371.2, § 371.9

The Texas State Board of Podiatric Medical Examiners adopts an amendment to §371.2 and §371.9, concerning Examinations without changes to the proposed text as published in the July 19, 1996, issue of the *Texas Register* (21 TexReg 6749).

The rule is being amended to bring terms in line with that used throughout the country and in accordance with State Legislation.

The amendments will change the examination fee to allow us to recover our expenses and to change some of the words so that their meaning is more easily understood.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 4568(j), which provide the Texas State Board of Podiatric Medical Examiners with the authority to adopt all reasonable or necessary rules, regulations, and by-laws not inconsistent with the law regulating the practice of podiatric medicine, the laws of this state, or of the United States; to govern its proceedings and activities, the regulation of the practice of podiatric medicine, and the enforcement of the law regulating the practice of podiatric medicine.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 9, 1996.

TRD-9613140

Janie Alonzo

Staff Services Officer I

Texas State Board of Podiatric Medical Examiners

Effective date: September 30, 1996

Proposal publication date: July 19, 1996

For further information, please call: (512) 305-7000

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Chapter 373. Identification of Practice

22 TAC §§373.1, 373.2, 373.4-373.7

The Texas State Board of Podiatric Medical Examiners adopts an amendment to §§373.1, 373.2, 373.4-373.7, concerning Identification of Practice without changes to the proposed text as published in the July 19, 1996, issue of the *Texas Register* (21 TexReg 6750). The text will not be republished.

The rule is being amended to bring terminology in line with that used throughout the country and in accordance with State Legislation.

The amendment will change podiatry to podiatric medical to comply with changes that were made during the last legislative session.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 4568(j), which provide the Texas State Board of Podiatric Medical Examiners with the authority to adopt all reasonable or necessary rules, regulations, and by-laws not inconsistent with the law regulating the practice of podiatric medicine, the laws of this state, or of the United States; to govern its proceedings and activities, the regulation of the practice of podiatric medicine, and the enforcement of the law regulating the practice of podiatric medicine.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Issued in Austin, Texas, on September 9, 1996.

TRD-9613141

Janie Alonzo

Staff Services Officer I

Texas State Board of Podiatric Medical Examiners

Earliest possible date of adoption: September 30, 1996

For further information, please call: (512) 305-7000



Chapter 375. Rules Governing Conduct

22 TAC §§375.1-375.5, 375.8-375.12

The Texas State Board of Podiatric Medical Examiners adopts an amendment to §§375.1-375.5 and 375.8-375.11 and adopts a new §375.12, concerning Rules Governing Conduct without changes to the proposed text as published in the July 19, 1996, issue of the *Texas Register* (21 TexReg 6751).

The rule is being amended to bring terminology in line with that used throughout the country and in accordance with State Legislation. The new section is proposed to provide procedures for insurers and podiatric physicians to report to the Board about medical professional liability claims.

The amendments will change podiatrist to podiatric physician to comply with changes that were made during the last legislative session.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 4568(j), which provide the Texas State Board of Podiatric Medical Examiners with the authority to adopt all reasonable or necessary rules, regulations, and by-laws not inconsistent with the law regulating the practice of podiatric medicine, the laws of this state, or of the United States; to govern its proceedings and activities, the regulation of the practice of podiatric medicine, and the enforcement of the law regulating the practice of podiatric medicine.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 9, 1996.

TRD-9613142

Janie Alonzo

Staff Services Officer I

Texas State Board of Podiatric Medical Examiners

Effective date: September 30, 1996

Proposal publication date: July 19, 1996

For further information, please call: (512) 305-7000



Chapter 376. Violations and Penalties

22 TAC §§376.1-376.4, 376.10

The Texas State Board of Podiatric Medical Examiners adopts an amendment to §§376.1-376.4, and 376.10, concerning Violations and Penalties without changes to the proposed text

as published in the July 19, 1996, issue of the *Texas Register* (21 TexReg 6754).

The rule is being amended to bring terminology in line with that used throughout the country and in accordance with State Legislation.

The amendments will change podiatrist to podiatric physician and podiatry to podiatric medical to comply with changes that were made during the last legislative session.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 4568(j), which provide the Texas State Board of Podiatric Medical Examiners with the authority to adopt all reasonable or necessary rules, regulations, and by-laws not inconsistent with the law regulating the practice of podiatric medicine, the laws of this state, or of the United States; to govern its proceedings and activities, the regulation of the practice of podiatric medicine, and the enforcement of the law regulating the practice of podiatric medicine.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 9, 1996.

TRD-9613143

Janie Alonzo

Staff Services Officer I

Texas State Board of Podiatric Medical Examiners

Effective date: September 30, 1996

Proposal publication date: July 19, 1996

For further information, please call: (512) 305-7000



Chapter 377. Procedure Governing Grievances, Hearings and Appeals

22 TAC §§377.1, 377.3, 377.4, 377.11, 377.34, 377.43

The Texas State Board of Podiatric Medical Examiners adopts an amendment to §§377.1, 377.3, 377.4, 377.11, 377.34 and 377.43, concerning Procedures Governing Grievances, Hearings, and Appeals without changes to the proposed text as published in the July 19, 1996, issue of the *Texas Register* (21 TexReg 6755).

The rule is being amended to bring terminology in line with that used throughout the country and in accordance with State Legislation. Deletion of the reference to the "secretary-treasurer" and replacing it with a reference to the "Board" in this Chapter 377, simplifies the complaint and appeal process.

The amendments will change all references of secretary-treasurer to executive director.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 4568(j), which provide the Texas State Board of Podiatric Medical Examiners with the authority to adopt all reasonable

or necessary rules, regulations, and by-laws not inconsistent with the law regulating the practice of podiatric medicine, the laws of this state, or of the United States; to govern its proceedings and activities, the regulation of the practice of podiatric medicine, and the enforcement of the law regulating the practice of podiatric medicine and 4568(p) which allows the Board to develop and implement policies that clearly define the respective responsibilities of the Board and the staff of the Board.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 9, 1996.

TRD-9613144

Janie Alonzo

Staff Services Officer I

Texas State Board of Podiatric Medical Examiners

Effective date: September 30, 1996

Proposal publication date: July 19, 1996

For further information, please call: (512) 305-7000



Chapter 378. Continuing Education

22 TAC §§378.1, 378.3, 378.5-378.8

The Texas State Board of Podiatric Medical Examiners adopts an amendment to §§378.1, 378.3 and 378.5-378.8, concerning Continuing Education without changes to the proposed text as published in the July 19, 1996, issue of the *Texas Register* (21 TexReg 6756).

The rule is being amended to bring terminology in line with that used throughout the country and in accordance with State Legislation.

The amendments will change podiatry to podiatric medicine.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 4568(j), which provide the Texas State Board of Podiatric Medical Examiners with the authority to adopt all reasonable or necessary rules, regulations, and by-laws not inconsistent with the law regulating the practice of podiatric medicine, the laws of this state, or of the United States; to govern its proceedings and activities, the regulation of the practice of podiatric medicine, and the enforcement of the law regulating the practice of podiatric medicine.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 9, 1996.

TRD-9613145

Janie Alonzo

Staff Services Officer I

Texas State Board of Podiatric Medical Examiners

Effective date: September 30, 1996

Proposal publication date: July 19, 1996

For further information, please call: (512) 305-7000



Chapter 379. Fees and License Renewal

22 TAC §379.1, §379.2

The Texas State Board of Podiatric Medical Examiners adopts an amendment to §379.1 and §379.2, concerning Fees and License Renewal without changes to the proposed text as published in the July 19, 1996, issue of the *Texas Register* (21 TexReg 6757).

The rule is being amended to bring terminology in line with that used throughout the country and in accordance with State Legislation and to change fees to the current amount and change the date of license renewal.

The amendments will change the fees to the current amount and change the date of license renewal.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 4568(j), which provide the Texas State Board of Podiatric Medical Examiners with the authority to adopt all reasonable or necessary rules, regulations, and by-laws not inconsistent with the law regulating the practice of podiatric medicine, the laws of this state, or of the United States; to govern its proceedings and activities, the regulation of the practice of podiatric medicine, and the enforcement of the law regulating the practice of podiatric medicine.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 9, 1996.

TRD-9613146

Janie Alonzo

Staff Services Officer I

Texas State Board of Podiatric Medical Examiners

Effective date: September 30, 1996

Proposal publication date: July 19, 1996

For further information, please call: (512) 305-7000



Chapter 380. Hyperbaric Oxygen Guidelines

22 TAC §380.1

The Texas State Board of Podiatric Medical Examiners adopts new rule §380.1, concerning Hyperbaric Oxygen Guidelines without changes to the proposed text as published in the July 19, 1996, issue of the *Texas Register* (21 TexReg 6758).

The new rule is being adopted to set guidelines to be followed for those who are utilizing Hyperbaric Oxygen while providing podiatric treatment.

The rule will govern those utilizing hyperbaric oxygen therapy.

No comments were received regarding adoption of the new rule.

The new rule is adopted under Texas Civil Statutes, Article 4568(j), which provide the Texas State Board of Podiatric Medical Examiners with the authority to adopt all reasonable or necessary rules, regulations, and by-laws not inconsistent with the law regulating the practice of podiatric medicine, the laws of this state, or of the United States; to govern its proceedings and activities, the regulation of the practice of podiatric medicine, and the enforcement of the law regulating the practice of podiatric medicine.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 9, 1996.

TRD-9613147

Janie Alonzo

Staff Services Officer I

Texas State Board of Podiatric Medical Examiners

Effective date: September 30, 1996

Proposal publication date: July 19, 1996

For further information, please call: (512) 305-7000



Chapter 381. Relative Anesthesia

22 TAC §§381.4-381.7

The Texas State Board of Podiatric Medical Examiners adopts an amendment to §§381.4-381.7, concerning Anesthesia without changes to the proposed text as published in the July 19, 1996, issue of the *Texas Register* (21 TexReg 6759).

The rule is being amended to bring terminology in line with that used throughout the country and in accordance with State Legislation.

The rule changes podiatry to podiatric medicine and podiatrist to podiatric physician.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 4568(j), which provide the Texas State Board of Podiatric Medical Examiners with the authority to adopt all reasonable or necessary rules, regulations, and by-laws not inconsistent with the law regulating the practice of podiatric medicine, the laws of this state, or of the United States; to govern its proceedings and activities, the regulation of the practice of podiatric medicine, and the enforcement of the law regulating the practice of podiatric medicine.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Issued in Austin, Texas, on September 9, 1996.

TRD-9613148

Janie Alonzo

Staff Services Officer I

Texas State Board of Podiatric Medical Examiners

Earliest possible date of adoption: September 30, 1996

For further information, please call: (512) 305-7000



Chapter 382.1 Radiologic Technologists

22 TAC 382.1

The Texas State Board of Podiatric Medical Examiners adopts an amendment to §382.1, concerning Registration of Podiatric Medical Radiologic Technologists without changes to the proposed text as published in the July 19, 1996, issue of the *Texas Register* (21 TexReg 6760).

The rule is being amended to bring terminology in line with that used throughout the country and in accordance with State Legislation.

The rule changes podiatry to podiatric medical and podiatrist to podiatric physician.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 4568(j), which provide the Texas State Board of Podiatric Medical Examiners with the authority to adopt all reasonable or necessary rules, regulations, and by-laws not inconsistent with the law regulating the practice of podiatric medicine, the laws of this state, or of the United States; to govern its proceedings and activities, the regulation of the practice of podiatric medicine, and the enforcement of the law regulating the practice of podiatric medicine.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Issued in Austin, Texas, on September 9, 1996.

TRD-9613149

Janie Alonzo

Staff Services Officer I

Texas State Board of Podiatric Medical Examiners

Earliest possible date of adoption: September 30, 1996

For further information, please call: (512) 305-7000



TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 2. Medically Needy Program

Program Requirements

40 TAC §2.1004

The Texas Department of Human Services (DHS) adopts an amendment to §2.1004, without changes to the proposed text as published in the *Texas Register* (21 TexReg 7228).

The justification for the amendment is to implement welfare reform policies as required by House Bill 1863.

The amendment will function by ensuring that DHS will be in compliance with state legislation related to welfare reform.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22, 31, and 32, which provides the department with the authority to administer public, financial, and medical assistance programs and under Texas Government Code, §531.021, which provides the Health and Human Services commission with the authority to administer federal medical assistance funds.

The amendment implements the Human Resources Code §§22.001-22.030, §31.0325, and §§32.001-32.042.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 10, 1996.

TRD-9613174

Glen Scott

General Counsel, Legal Services

Texas Department of Human Services

Effective date: October 1, 1996

Proposal publication date: July 30, 1996

For further information, please call: (512) 438-3765



Chapter 3. Income Assistance Services

The Texas Department of Human Services (DHS) adopts the repeal of §3.3906 and §§3.3908-3.3911; amendments to §§3.301, 3.703, 3.704, 3.1101, 3.2204, 3.2205, 3.3904, 3.3905, and 3.3907; and new §3.3909 and §3.6004, without changes to the proposed text published in the *Texas Register* (21 TexReg 6773).

The justification for the repeals, amendments, and new sections is to implement welfare reform policies as required by House Bill 1863.

The repeals, amendments, and new sections will function by ensuring that DHS will be in compliance with state legislation related to welfare reform.

No comments were received regarding the adoption of the repeals, amendments, and new sections.

Subchapter C. The Application Process

40 TAC §3.301

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 31, which provides the department with the authority to administer public and financial assistance programs.

The amendment implements the Human Resources Code §§22.001-22.030 and §31.0325.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 10, 1996.

TRD-9613175

Glen Scott

General Counsel, Legal Services

Texas Department of Human Services

Effective date: October 1, 1996

Proposal publication date: July 19, 1996

For further information, please call: (512) 438-3765



Subchapter G. Resources

40 TAC §3.703, §3.704

The amendments are adopted under the Human Resources Code, Title 2, Chapters 22 and 31, which provides the department with the authority to administer public and financial assistance programs.

The amendments implement the Human Resources Code §§22.001-22.030 and §31.0325.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 10, 1996.

TRD-9613176

Glen Scott

General Counsel, Legal Services

Texas Department of Human Services

Effective date: October 1, 1996

Proposal publication date: July 19, 1996

For further information, please call: (512) 438-3765



Subchapter K. Employment Services

40 TAC §3.1101

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 31, which provides the department with the authority to administer public and financial assistance programs.

The amendment implements the Human Resources Code §§22.001-22.030 and §31.0325.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 10, 1996.

TRD-9613177

Glen Scott

General Counsel, Legal Services

Texas Department of Human Services

Effective date: October 1, 1996

Proposal publication date: July 19, 1996

For further information, please call: (512) 438-3765



Subchapter V. Medicaid Eligibility

40 TAC §3.2204, §3.2205

The amendments are adopted under the Human Resources Code, Title 2, Chapters 22 and 31, which provides the department with the authority to administer public and financial assistance programs.

The amendments implement the Human Resources Code §§22.001-22.030 and §31.0325.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 10, 1996.

TRD-9613178

Glen Scott

General Counsel, Legal Services

Texas Department of Human Services

Effective date: October 1, 1996

Proposal publication date: July 19, 1996

For further information, please call: (512) 438-3765

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Subchapter MM. Aid to Families with Dependent Children-Unemployed Parent Program

40 TAC §§3.3904, 3.3905, 3.3907, 3.3909

The amendments and new section are adopted under the Human Resources Code, Title 2, Chapters 22 and 31, which provides the department with the authority to administer public and financial assistance programs.

The amendments and new section implement the Human Resources Code §§22.001-22.030 and §31.0325.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 10, 1996.

TRD-9613179

Glen Scott

General Counsel, Legal Services

Texas Department of Human Services

Effective date: October 1, 1996

Proposal publication date: July 19, 1996

For further information, please call: (512) 438-3765

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40 TAC §§3.3906, 3.3908-3.3911

The repeals are adopted under the Human Resources Code, Title 2, Chapters 22 and 31, which provides the department with the authority to administer public and financial assistance programs.

The repeals implement the Human Resources Code §§22.001-22.030 and §31.0325.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 10, 1996.

TRD-9613180

Glen Scott

General Counsel, Legal Services

Texas Department of Human Services

Effective date: October 1, 1996

Proposal publication date: July 19, 1996

For further information, please call: (512) 438-3765

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Subchapter PP. Applicability of Policies Resulting from House Bill 1863

40 TAC §3.6004

The new section is adopted under the Human Resources Code, Title 2, Chapters 22 and 31, which provides the department with the authority to administer public and financial assistance programs.

The new section implements the Human Resources Code §§22.001-22.030 and §31.0325.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 10, 1996.

TRD-9613181

Glen Scott

General Counsel, Legal Services

Texas Department of Human Services

Effective date: October 1, 1996

Proposal publication date: July 19, 1996

For further information, please call: (512) 438-3765

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Chapter 47. Primary Home Care Service Requirements

40 TAC §47.2902

The Texas Department of Human Services (DHS) adopts an amendment to §47.2902, without changes to the proposed amendment. The proposed text published in the July 16, 1996, issue of the *Texas Register* (21 TexReg 6613) contained an error in that it indicated that there were no changes to paragraphs (2) and (3) in subsection (a). Paragraph (a)(3) had already been deleted effective July 1, 1996, under an earlier rule amendment.

The justification for the amendment is to reflect the streamlined prior approval process.

The amendment will function by allowing fewer breaks in services to primary home care clients.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs and under Texas Government Code §531.021, which provides the Health and Human Services Commission with the authority to administer federal medical assistance funds.

The amendment implements §§22.001-22.030 and §32.001-32.041 of the Human Resources Code.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 9, 1996.

TRD-9613138

Glenn Scott

General Counsel, Legal Services

Texas Department of Human Services

Effective date: October 1, 1996

Proposal publication date: July 16, 1996

For further information, please call: (512) 438-3765



TEXAS DEPARTMENT OF INSURANCE

Notification Pursuant to the Insurance Code, Chapter 5, Subchapter L

As required by the Insurance Code, Article 5.96 and 5.97, the *Texas Register* publishes notice of proposed actions by the Texas Board of Insurance. Notice of action proposed under Article 5.96 must be published in the *Texas Register* not later than the 30th day before the board adopts the proposal. Notice of action proposed under Article 5.97 must be published in the *Texas Register* not later than the 10th day before the Board of Insurance adopts the proposal. The Administrative Procedure Act, the Government Code, Chapters 2001 and 2002, does not apply to board action under Articles 5.96 and 5.97.

The complete text of the proposal summarized here may be examined in the offices of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104.)

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Administrative Procedure Act.

Texas Department of Insurance

EXEMPT FILING NOTIFICATION PURSUANT TO THE INSURANCE CODE CHAPTER 5, SUBCHAPTER L, ARTICLE 5.96 ADOPTION OF REVISED TEXAS WORKERS' COMPENSATION CLASSIFICATION RELATIVITIES AND AMENDMENTS TO THE TEXAS BASIC MANUAL OF RULES, CLASSIFICATION AND EXPERIENCE RATING PLAN FOR WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE TO UPDATE EXPECTED LOSS RATES AND DISCOUNT RATIOS

The Commissioner of Insurance has adopted the revised Texas Workers' Compensation Classification Relativities (Classification Relativities) and the revised table which amends the Texas Basic Manual of Rules, Classification, and Experience Rating Plan for Workers' Compensation and Employers' Liability Insurance (Manual) as it concerns expected loss rates and discount ratios. The revisions were proposed by Department staff in a petition filed on June 24, 1996. Notice of the proposal (Reference Number W-0696-24-I) was published in the July 2, 1996, issue of the *Texas Register* (21 TexReg 6087). The revisions were considered at a public hearing held on August 15, 1996, at 9:00 a.m., under Docket Number 2234 in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas.

The Commissioner adopted with changes to the proposal as noticed in the *Texas Register*, revised Classification Relativities and revised expected loss rates and discount ratios as contained in the Manual.

Based on written comments on the proposal, the Commissioner has adopted the schedules of Classification Relativities with changes to certain classifications that had been combined for ratemaking purposes in 1994 and had not been combined in the proposed version. The adopted schedules display the Classification Relativities in the combined format.

Based on oral comments on the proposal, the Commissioner has adopted the Classification Relativities with additional slight modifications to the Classification Relativities as proposed. The modifications

resulted from incorporating experience data that had previously not been reported to the National Council on Compensation Insurance, Inc. and consequently had not been considered in the calculations of the Classification Relativities. The effects on the Classification Relativities that had been proposed is approximately 0.3%. There are corresponding changes in the proposed expected loss rates and no changes in the discount ratios.

The Commissioner has determined that the revisions to the Classification Relativities and the revisions to the expected loss rates and discount ratios contained in the Manual which are necessary to more accurately reflect the changes in experience due to enactment of legislation as well as the changes that occur with the passage of time due to occurrences such as technological advances and improvement in safety programs.

The Commissioner has jurisdiction of this matter pursuant to the Insurance Code, Articles 5.60 and 5.96.

The revised Classification Relativities and the revised expected loss rates and discount ratios are on file in the Chief Clerk's Office of the Texas Department of Insurance under Reference Number W-0696-24-I and are incorporated by reference into Commissioner Order Number 96-1038.

The notification is made pursuant to the Insurance Code, Article 5.96, which exempt action taken under Article 5.96 from the requirements of the Administrative Procedure Act (Government Code, Title 10, Chapter 2001).

Consistent with the Insurance Code, Article 5.96(h), prior to the effective date of this action, the Texas Department of Insurance will notify all insurers affected by this action.

This agency hereby certifies that the adopted revised Classification Relativities and the revised expected loss rates and discount ratios contained in the Manual have been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

IT IS THEREFORE THE ORDER of the Commissioner of Insurance that the revised Texas Workers Compensation Classification Relativities are adopted. IT IS FURTHER ORDERED that the revised table which amends the Texas Basic Manual of Rules, Classifications, and

Experience Rating Plan for Workers' Compensation and Employers' Liability Insurance as it concerns expected loss rates and discount ratios are adopted effective January 1, 1997.

Issued in Austin, Texas, on September 13, 1996.

TRD-9613496

Caroline Scott

General Counsel and Chief Clerk

Texas Department of Insurance

Effective date: January 1, 1997

Filed: September 13, 1996



TABLES & GRAPHICS

Graphic material from the emergency, proposed, and adopted sections is published separately in this tables and graphics section. Graphic material is arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic material is indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word “Figure” followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph, and so on. Multiple graphics in a rule are designated as “Figure 1” followed by the TAC citation, “Figure 2” followed by the TAC citation.

Figure: 16 TAC 9.167(a)

MAXIMUM PERMITTED FILLING DENSITY			
Aboveground Containers			Underground Containers
Specific Gravity at 60° F.	0 to 1,200 gals. Water Capacity	Over 1,200 Gals. Water Capacity	All Capacities
.473-.480	38%	41%	42%
.481-.488	39%	42%	43%
.489-.495	40%	43%	44%
.496-.503	41%	44%	45%
.504-.510	42%	45%	46%
.511-.519	43%	46%	47%
.520-.527	44%	47%	48%
.528-.536	45%	48%	49%
.537-.544	46%	49%	50%
.545-.552	47%	50%	51%
.553-.560	48%	51%	52%
.561-.568	49%	52%	53%
.569-.576	50%	53%	54%
.577-.584	51%	54%	55%
.585-.592	52%	55%	56%
.593-.600	53%	56%	57%
.601-.608	54%	57%	58%
.609-.617	55%	58%	59%
.618-.626	56%	59%	60%
.627-.634	57%	60%	61%

OPEN MEETINGS

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours before a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the ***Texas Register***.

Emergency meetings and agendas. Any of the governmental entities listed above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. All emergency meeting notices filed by governmental agencies will be published.

Posting of open meeting notices. All notices are posted on the bulletin board at the main office of the Secretary of State in lobby of the James Earl Rudder Building, 1019 Brazos, Austin. These notices may contain a more detailed agenda than what is published in the ***Texas Register***.

Meeting Accessibility. Under the Americans with Disabilities Act, an individual with a disability must have an equal opportunity for effective communication and participation in public meetings. Upon request, agencies must provide auxiliary aids and services, such as interpreters for the deaf and hearing impaired, readers, large print or braille documents. In determining type of auxiliary aid or service, agencies must give primary consideration to the individual's request. Those requesting auxiliary aids or services should notify the contact person listed on the meeting summary several days prior to the meeting by mail, telephone, or RELAY Texas (1-800-735-2989).

State Office of Administrative Hearings

Tuesday, September 24, 1996, 1:30 p.m.

300 West 15th Street, William P. Clements Building, Room 410A
Austin

Utility Division

AGENDA:

A Pre-Hearing Conference will be held at the above date and time in SOAH DOCKET NO. 473-96-1643-APPLICATION OF GTE SOUTHWEST, INC., FOR REVISION OF ITS SHARED TENANT SERVICES TARIFF TO INCLUDE ITS DEMARCATION PRACTICE (PUC DOCKET NO. 15849).

Contact: J. Kay Trostle, 300 West 15th Street, Suite 502, Austin, Texas 78701-1649, (512) 936-0728.

Filed: September 13, 1996, 3:28 p.m.

TRD-9613479



Texas Department of Agriculture

Tuesday, September 24, 1996, 9:00 a.m.

Texas Department of Agriculture, 1700 North Congress, Room 911
Austin

Finance Authority

AGENDA:

Discussion and action on: minutes of previous meeting, amended resolution for expansion of the Loan Guaranty Program. Presentation by respondents of the Cost Benefit Study Request for Proposal. Discussion and action on; selection of Consultant to perform the Cost Benefit Study, Emanon Produce dba Old Oak Firewood, Program Rules and Credit Policy and Procedures for Loan Guaranty Program, Adoption of the Program Rules and Credit Policy and Procedures for Young Farmer Loan Guarantee Program, Linked Deposit Program Attorney General opinion request, Portfolio of the Loan Guaranty

Program. Public comment. Executive Session to meet with attorney to seek legal advice on pending or contemplated litigation in accordance with Texas Government Code §551.071. Return to open session for any further discussion and possible action involving the legal advice. Discussion and Action on future meeting date.

Contact: Robert Kennedy, P.O. Box 12847, Austin, Texas 78711, 512/463-7639.

Filed: September 13, 1996, 2:07 p.m.

TRD-9613471



Texas Alcoholic Beverage Commission

Friday, September 20, 1996, 1:30 p.m.

5806 Mesa Drive, Suite 185

Austin

AGENDA:

1:30 — Call to Order, Convene in Open Meeting, Announcement of Executive Session.

1. Executive Session: — a) Briefing regarding operations of the general counsel's office.

Continue Open Meeting.

2. Take action, including a vot, if appropriate, on topics listed for discussion under executive session.

3. Recognition of agency employees with 20 or more years of service.

4. Approval of minutes of August 26, 1996 meeting; discussion, comment, possible vote.

5. Administrator's report.

6. Petition submitted by the City of Jefferson, Texas, under §109.35, Alcoholic Beverage Code, requesting permission to prohibit the possession of open containers and public consumption of alcoholic beverages in the central business district as defined by the map attached to the petition; discussion, comment, possible vote.

7. Public comment.

8. Adjourn.

Contact: Doyné Bailey, Texas Alcoholic Beverage Commission, P.O. Box 13127, Austin, Texas 78711, (512) 206-3217.

Filed: September 12, 1996, 8:30 a.m.

TRD-9613376

Texas Commission on Alcohol and Drug Abuse (TCADA)

Friday, September 27, 1996, 11:00 a.m.

3930 Kirby, Suite 207, Texas Youth Commission

Houston

Regional Advisory Consortium, (RAC), Region 6

AGENDA:

Call to order; welcome and introduction of guests; approval of minutes; role of RAC; Goal 4 decision; membership committee report; election of officers; new business; public comment; and adjournment.

Contact: Heather Harris, Texas Commission on Alcohol and Drug Abuse, 9001 North IH35, Suite 105, Austin, Texas 78701, (512) 349-6669.

Filed: September 12, 1996, 8:38 a.m.

TRD-9613378

Tuesday, October 15, 1996, 9:00 a.m.

201 N. Magnolia Street,

Woodville

Regional Advisory Consortium, (RAC), Region 5

AGENDA:

Call to order; introduction of visitors; public comment; approval of minutes; TCADA update and comments; old business; new business; review of TCADA commissioner presentation on goals 1 and 2, membership committee report and recommendations, and discussion and plans regarding goals 3 and 4 as requested by TCADA; scheduling of next meeting and committee needs; additional discussion; and adjournment.

Contact: Perry Bridges, Field Representative, TCADA, 3303 West Gentry Parkway, Tyler, Texas 75702, (903) 533-4259.

Filed: September 12, 1996, 3:08 p.m.

TRD-9613408

Texas Alternate Fuels Council

Tuesday, September 24, 1996, 4:00 p.m.

John H. Reagan Office Building, Room 106

Austin

AGENDA:

John H. Reagan Office Building, Room 106

Austin

AGENDA:

I. Call to Order

II. Consideration of Minutes from August 21, 1996 Council Meeting

III. Consideration of Certification of Vehicle Fueling System to the Low Emission Vehicle Standard Proposals

IV. Consideration of Alternative Fuels Council 1997 Fiscal Year Budget

V. Information Items

VI. Public Comment

VII. Adjournment

Contact: Craig Davis, Administrator, 1700 North Congress, Room 124, Austin, Texas 78701, (512) 463-3262.

Filed: September 13, 1996, 10:56 a.m.

TRD-9613434

Texas Child Care Development Board

Friday, September 20, 1996, 9:30 a.m.

Stephen F. Austin Building, Room 832, 1700 North Congress Avenue
Austin

AGENDA:

Welcome and introductory remarks. Discussion of request by Creative World, Inc. for rate increase at the Capitol Complex Center. Adjourn.

Contact: Alice Embree, P.O. Box 12017, Austin, Texas 78711-2017, (512) 463-2181, Ext. 2220

Filed: September 11, 1996, 2:49 p.m.

TRD-9613322

Coastal Coordination Council (CCC)

Friday, September 20, 1996, 10:00 a.m.

State Capitol Extension Building, 1400 Congress Avenue, Room E1.028

Austin

CCC Executive Committee

AGENDA:

I. Call to Order.

II. Administrative Business

III. Rule Certification and threshold approval. ACTION ITEM: EC recommendation to Council on GLO request for threshold approval on seismic permits, and preparation of Council written certification.

IV. Wetlands Permitting MOA. ACTION ITEM: EC recommendation to Council on streamlining wetlands permitting process and memorandum of agreement with Corps of Engineers.

V. Discussion of Advisory Committee.

VI. Discussion of Small Business Permitting Assistance Program/ Preliminary Review.

VII. CMP Grants program. ACTION ITEM: EC recommendation to Council on changes for grant cycle #2.

VIII. State Coastal Nonpoint Pollution Control Program. ACTION ITEM: EC recommendation to Council to create a work group.

IX. General Public Comment. Opportunity for public comment will be offered after discussion of each agenda item.

X. Adjourn

Contact: Janet Fatheree, Texas General Land Office, 1700 North Congress Avenue, Room 617, Austin, Texas 78701, (512) 463-5385.
Filed: September 11, 1996, 4:16 a.m.

TRD-9613333



Interagency Council on Early Childhood Intervention

Thursday, September 19, 1996, 8:30 a.m.

4900 North Lamar Boulevard

Austin

Board

Agenda:

Internal Audit Subcommittee Meeting-TRC Room #2230; Public Comment; Discussion Approval of Minutes from August 22, 1996 Meeting; Executive Committee of Advisory Committee Report on Council Board Restructuring; Discussion and Approval of Staff Recommendation Regarding Fees; Discussion on Revisions to Chapter 73, Human Resources Code; Discussion and Approval of Emergency Rule Changes to 25 TAC §§621.23, 621.24, and 621.46; Discussion and Approval of Staff Recommendation of Continuation of Funding for Easter Seals Society of the Rio Grande Valley; Discussion with the OSEP Monitoring Team; Discussion and Approval of Internal Audit Report on the Division of Education, Communication and Information and Agency Audit Plan; FYI.

Contact: Linda Hill, 4900 North Lamar Boulevard, Austin, Texas 78751-2399

Filed: September 11, 1996, 11:36 a.m.

TRD-9613312



Texas Education Agency (TEA)

Tuesday, September 24, 1996, 9:00 a.m.

Room 1-104, William B. Travis Building, 1701 North Congress

Austin

Texas Ed-Flex Committee

AGENDA:

Call to Order- Mr. Steve Palko; Approval of Minutes; Dialogue with Commissioner of Education Mike Moses; Recommendations on Specific District and Campus Waiver Requests; Status Report

— Dr. Madeleine Draeger Manigold; Discussion of Committee Operations; Discussion of issues related to education flexibility partnership demonstration; Adjournment.

Contact: Madeleine Draeger Manigold, Program Support, TEA, 1701 North Congress Avenue, Austin, Texas (512) 463-9077.

Filed: September 13, 1996, 1:09 p.m.

TRD-9613465



Texas Energy Coordination Council

Thursday, September 19, 1996, 1:00 p.m.

Capitol Extension, 1200 Congress Avenue, Room E1.016

Austin

AGENDA:

I. Call to Order and Verification of Quorum.

II. Introductions: Council Members, Staff, Guests.

III. Consideration and Action on July 18, 1996 Meeting Minutes.

IV. Consideration and final Action on TECC Mission Statement.

V. Invited Presentations on Alternative Fuels Use in Texas.

VI. Presentation on Wind Energy Generation in Texas.

VII. Executive Director's Report.

VIII. Institute Reports — Texas Building Energy Institute, Energy Storage Technology Institute.

IX. Recommendation for next Agenda.

X. Confirmation of next meeting date and site.

XI. Adjourn.

Contact: Susan Peterson, 10100 Burnet Road, CES (R7100), Austin, Texas 78758, (512) 375-6984.

Filed: September 11, 1996, 4:16 p.m.

TRD-9613334



General Services Commission

Tuesday, September 24, 1996, 9:30 a.m.

Central Services Building, 1711 San Jacinto, Room 402

Austin

AGENDA SUMMARY:

Consideration of approval of Revisions to 1998/1999 Legislative Appropriations Request; Consideration of delegating purchasing authority to the Texas Department of Mental Health and Mental Retardation; Consideration of fiscal year 1997 Internal Audit Plan; Consideration of proposed change orders — various projects; Program Issues; Executive Session to consider personnel matters pursuant to the provisions of Texas Government Code Section 551.074; Executive Session to consider the status of the purchase of real property pursuant to the provisions of Texas Government Code Section 551.072; Executive Session to consult with Legal Counsel concerning pending litigation pursuant to the provisions of Texas Government Code Section 551.071.

Contact: Judy Ponder, General Counsel, 1711 San Jacinto, Austin,
Texas 78701, (512) 463-3960.
Filed: September 13, 1996, 2:07 p.m.
TRD-9613470

Office of the Governor

Friday, September 20, 1996, 9:30 a.m.

Room E1.030, State Capitol Extension

Austin

Citizen's Committee on Property Tax Relief

AGENDA:

The committee will meet to consider public testimony received through 14 public hearings across the State and begin deliberating on the content of the committee report.

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, large print, or braille, are requested to contact Camille Welborn at (512) 463-1776, two working days prior to the meeting so that appropriate arrangements can be made.

Contact: Albert Hawkins, Director, Governor's Office of Budget and Planning, 4th Floor, State Insurance Building, 1100 San Jacinto, Austin, Texas 78701, (512) 463-1778.

Filed: September 13, 1996, 3:27 p.m.

TRD-9613477

Texas Growth Fund

Thursday, September 19, 1996, 11:15 a.m.

1000 Red River

Austin

AGENDA:

1. Review and approve minutes of the Special Meeting of the Board of Trustees held on June 17, 1996.
2. Review and approve minutes of the Emergency Meeting of the Board of Trustees held on August 21, 1996.
3. Review and approve Treasurer's report.
4. Review and approve invoices from Vinson and Elkins L.L.P.
5. Receive an activity report from TGF Management Corporation.
6. Review and approve TGF Management Corporation's Fourth Quarter 1996 Budget Request.
7. Review and approve proposed investment(s).
8. Such other matters as may come before the Board of Trustees.

Contact: Janet Waldeler, 100 Congress Avenue, Suite 980, Austin, Texas 78701, (512) 322-3100.

Filed: September 11, 1996, 3:29 p.m.

TRD-9613332

Texas Guaranteed Student Loan Corporation

Thursday, September 19, 1996, 9:00 a.m.

13809 North Highway 183, Suite 301

Austin

Budget/Finance/Audit Committee

AGENDA:

1. Call to Order
2. Approval of August 23, 1996 Committee Minutes
3. Review and Approval of FY97 Internal Audit Plan
4. Presentation and Recommendation for Action on Amended FY97 Budget Request
5. Review and Recommendation for Action on Annual Resolution for Contract Execution
6. Review and Recommendation for Action on Education Assistance Services, Inc. (EASI.) Loan Request Proposal
7. Adjourn

Contact: Pat Boulton, 13809 North Highway 183, Austin, Texas 78750

Filed: September 11, 1996, 1:22 p.m.

TRD-9613316

Thursday, September 19, 1996, 1:00 p.m.

13809 North Highway 183, Suite 1000

Austin

Personnel Committee

AGENDA:

1. Call to Order
2. Approval of July 18, 1996 Committee Minutes
3. Report on the Development of the Incentive Plan for Managers, Team Leaders and Team Members
4. Review and Action on Recommendation for Ratification of Officers' Salaries Since September 13, 1995
5. Review and Action on Recommendation for Maximum Percent of Merit Increase for Officers' Salaries for FY97
6. Adjourn.

Contact: Pat Boulton, 13809 North Highway 183, Austin, Texas 78750

Filed: September 11, 1996, 1:22 p.m.

TRD-9613317

Thursday, September 19, 1996, 2:00 p.m.

13809 North Highway 183, Suite 1000

Austin

Nominating Committee

AGENDA:

1. Call to Order
2. Discussion of Nominations for Board Officers in FY97 (Oct.1, 1996 through Sept.30, 1997) and report to the Board of Directors
3. Adjourn

Contact: Pat Boulton, 13809 North Highway 183, Austin, Texas 78750
Filed: September 11, 1996, 1:22 p.m.

TRD-9613318



Thursday, September 19, 1996, 2:30 p.m.

13809 North Highway 183, Suite 1000

Austin

Executive Committee

AGENDA:

1. Call to Order
2. Approval of August 23, 1996, Committee Minutes
3. Review and Recommendation for Action on TOTH Facility Space Lease (first floor)
4. Review and Action on Recommendation for Ratification of Amendments to EASI Bylaws
5. Adjourn to Executive Session: Discussion Concerning Appointments to Board of Directors for Education Assistance Services, Inc. (EASI); Discussion of CEO's Performance Evaluation; Discussion of Performance Evaluation with CEO
6. Resume Open Session
7. Action on Items Arising from Executive Session and Action on Salary Merit Increase for President
8. Adjourn

Contact: Pat Boulton, 13809 North Highway 183, Austin, Texas 78750
Filed: September 11, 1996, 1:22 p.m.

TRD-9613319



Friday, September 20, 1996, 9:00 a.m.

13809 North Highway 183, Suite 301

Austin

Board of Directors

AGENDA:

1. Call to Order
2. Approval of July 18 and 19, 1996 Board Meeting Minutes
3. Report from Nominations Committee- Election of Board Officers
4. Report from Personnel Committee : Report on the Development of the Incentive Plan for Managers, Team Leaders and Team Members; Review and Action on Ratification of Officers' Salaries Since September 13, 1995; Review and Action on Maximum Percent of Merit Increase for Officers' Salaries for FY97.

5. Report from Budget/Audit/Finance Committee: Review and Action on FY97 Budget Request; Review and Action on Annual Resolution for Contract Execution; Review and Action on EASI Loan Request Proposal

6. Review and Action on Records Retention ; Resolution regarding Executive Session; Board and Regular Meetings Audio Tape; Retention Policy

7. Report from Executive Committee: Review and Action on TOTH Facility Space Lease (first floor); Review and Action on Ratification of EASI Bylaws Amendments

8. Adjourn to Executive Session: Discussion of Appointment of EASI Board of Directors

9. Resume Open Session

10. Action on Items Arising from Executive Session

11. Review and Action on Replacements for School and Lender Advisory Committee Candidates

12. Adjourn

Contact: Pat Boulton, 13809 North Highway 183, Austin, Texas 78750
Filed: September 11, 1996, 1:23 p.m.

TRD-9613320



Texas Department of Housing and Community Affairs

Monday, September 23, 1996, 8:30 a.m.

507 Sabine Street, Room 437

Austin

Finance Committee

AGENDA:

The Finance Committee of Texas Department of Housing and Community Affairs will meet to consider and possibly act on: Minutes of Meetings of August 2 and 19; Down Payment Assistance Program Funds Available for all Forms of Permanent single Family Housing Finance Whether or Not Related to Department Programs; Issuance of Single Family Mortgage Revenue Bonds, Refunding Bonds and Taxable Bonds; Issuance of Junior Lien Single Family Bonds, Taxable Junior Lien Bonds; Investment Policy, Ratification of CMO Transactions; Third Quarter Investment Report; Executive Director's Report; Executive Session — Personnel Matters, Anticipated Litigation, Consultation with Attorney; Act in open session on items from Executive Session; Adjourn.

Contact: L.P. Manley, 507 Sabine, #900, Waller Creek Office Building, Austin, Texas 78701, (512) 475-3934.

Filed: September 13, 1996, 4:04 p.m.

TRD-9613502



Monday, September 23, 1996, 10:30 a.m.

507 Sabine Street, Room 437

Austin

Board Meeting

AGENDA:

The Board of Texas Department of Housing and Community Affairs will meet to consider and possibly act on: Minutes of Meetings of August 19 and August 26; Down Payment Assistance Program Available for all Forms of Permanent Single Family Housing Finance Whether or Not Related to Department Programs; Issuance of Single Family Mortgage Revenue Bonds, Refunding Bonds and Taxable Bonds; Issuance of Junior Lien Single Family Bonds, Taxable Junior Lien Bonds; Issuance of Single Family Mortgage Revenue Bonds 1996A, Single Family Refunding bonds 1996B, Taxable Single Family Mortgage Revenue 1996C; Investment Policy; Ratification of CMO transactions; Third Quarter Investment Report; Home Construction and Acquisition Program to Extend Commitment Letters; Reallocation of Funds to Bee Community Action Agency; Guidelines for Neighborhood Partnerships; BHIF Reallocation of Funds to Mercedes, Texas; Amendment to Contract with Texas Housing Finance Corporation; Deobligation to Housing Trust Fund Loans to Hispanic Housing and Alternative Building Concepts; Request; Executive Session – Personnel matters, Anticipated Litigation; Consultation with Attorney under Sec. 551.071 (2) of Texas Government Code; Act in Open Session on items acted upon in Executive Session; Adjourn.

Contact: L.P. Manley, 507 Sabine, #900, Waller Creek Office Building, Austin, Texas 78701, (512) 475-3934.
Filed: September 13, 1996, 3:53 p.m.

TRD-9613497



Monday, September 23, 1996, 10:30 a.m.

507 Sabine Street, Room 437

Austin

Board Meeting

EMERGENCY REVISED AGENDA:

Please add: Approval of Establishment of Three Home Ownership Zones and Allocation of Resources for Third Ward, Fourth Ward, and Fifth Ward, in Houston, Texas.

REASON FOR EMERGENCY REVISION: To obtain resources for the Third, Fourth and Fifth Wards in Houston, Texas.

Contact: L.P. Manley, Executive Director, Texas Department of Housing 507 Sabine, #900, Waller Creek Office Building, Austin, Texas 78701, (512) 475-3934.

Filed: September 16, 1996, 9:41 p.m.

TRD-9613529



Monday, September 23, 1996, 1:00 p.m.

507 Sabine Street, Room 437

Austin

Board Meeting — Rescheduled from August 19, 1996

AGENDA:

The Board of Texas Department of Housing and Community Affairs will meet to consider and possibly act on: Minutes of Meetings of August 26; Authority to enter into a Master Servicing Agreement;

Authorization to Amend and Restate Resolution for Signature Authority; Warehouse Line of Credit in Connection with Servicing on 1996 Bond Issue; Collateral Agreement with Bank of America and Authorization of Signature Authority for the Federal Reserve Bank of Dallas; President's Report; Executive Session — Consultation with attorney under Sec. 551.071(2) of the Texas Government Code, Adjourn.

Contact: L.P. Manley, 507 Sabine, #900, Waller Creek Office Building, Austin, Texas 78701, (512) 475-3934.

Filed: September 13, 1996, 4:03 p.m.

TRD-9613501



Texas Department of Human Services

Friday, September 20, 1996, 11:00 a.m.

701 West 51st Street, 1st floor, Public Hearing Room

Austin

Texas Board of Human Services

AGENDA:

1. Approval of the minutes of August 23, 1996.
2. Chair's comments and announcements.
3. Adoption of rule revisions to implement improvements in the Child and Adult Care Food Program (CACFP): Eligibility criteria and performance standards for private, nonprofit CACFP Day Home Sponsors.
4. Adoption of rule revisions to implement improvements in the CACFP: Risk Analysis.
5. Adoption of rule revisions to implement improvements in the CACFP: Administrative Sanctions.
6. Adoption of amendments to the Personal Care Licensure rules to include Adult Foster Care Homes serving four persons.
7. Revised rules on Administrative and Financial Errors in the Day Activity and Health Services (DAHS) Program.
8. Addition of risk factors to Long-term Care Medicaid Eligibility.
9. Amendments to the rules regarding the Texas Index for Level of Effort (TILE) classification system in the Long-term Care Nursing Facility Requirements for Licensure and Medicaid Certification.
10. Amendments to policies and procedures.
11. Commissioner's Report: a) award of the Lone Star Image System contract in the Aid to Families with Dependent Children (AFDC) and Food Stamp Programs, b) Announcements and comments, c) Tracking of Board action.

Contact: Sherron Heinemann, Texas Department of Human Services, P.O. Box 149030, Austin, Texas 78714-9030, (512) 438-3048.

Filed: September 12, 1996, 2:43 p.m.

TRD-9613403



Texas Department of Insurance

Monday, October 7, 1996, 3:00 p.m.

300 West 15th Street, Suite 502

Austin

AGENDA:

Prehearing Conference in the Matter of JIMMY COWARD BROKERAGE COMPANY v. Texas Worker's Compensation Insurance Facility.

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701 (512) 463-6328.

Filed: September 16, 1996, 9:24 a.m.

TRD-9613524

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Tuesday, December 10, 1996, 10:00 a.m.

300 West 15th Street, Suite 502

Austin

AGENDA:

Notice is hereby given that a hearing under Docket no. 454-96-1639.G will be held before an administrative law judge (ALJ) in the State Office of Administrative Hearings (SOAH) at 10:00 a.m. on December 10, 1996 and continuing thereafter at dates, times and places designated by the ALJ until conclusion. The purpose of the hearing is to establish benchmark rates for private passenger and commercial automobile insurance, including the spreading of the benchmark rates among relevant classifications and territories.

Contact: Sylvia Gutierrez, 333 Guadalupe Street, Texas Department of Insurance, Austin, Texas 78701 (512) 463-6327.

Filed: September 16, 1996, 10:05 a.m.

TRD-9613542

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Tuesday, January 7, 1996, 10:00 a.m.

300 West 15th Street, Suite 502

Austin

AGENDA:

Notice is hereby given that a hearing under Docket No. 454-96-140G will be held before an administrative law judge (ALJ) in the State Office of Administrative Hearings at 10:00 a.m. on January 7, 1997 and continuing thereafter at dates, times and places designated by the ALJ until conclusion. The purpose of the hearing is consideration of adoption of the manual rates for private passenger and commercial classes of risks provided through the Texas Automobile Insurance Plan Association ("TAIPA").

Contact: Sylvia Gutierrez, 333 Guadalupe Street, Texas Department of Insurance, Austin, Texas 78701 (512) 463-6327.

Filed: September 16, 1996, 10:04 a.m.

TRD-9613539

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Texas Juvenile Probation Commission

Friday, September 20, 1996, 8:00 a.m.

Holiday Inn South, 3401 South IH35

Austin

Budget Committee Meeting

AGENDA:

Call to order; excuse absences; discussion on the analysis drafted by TJPC staff on Healthy Families Texas Program; Discussion and possible action on proposed policy on revenue enhancement by local departments for administrative reimbursement; report on status of Medicaid Insurance Program for Juveniles; public comment, adjourn.

Contact: Vickie Wright, Executive Director, P.O. Box 13547, Austin, Texas (512) 424-6682.

Filed: September 11, 1996, 4:35 p.m.

TRD-9613337

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Friday, September 20, 1996, 8:30 a.m.

Holiday Inn South, 3401 South IH35

Austin

Construction Bond Committee Meeting

AGENDA:

Call to order; excuse absences; discussion and possible action on the TJPC/TDCJ Interagency Cooperation Agreement; public comment; adjourn.

Contact: Vickie Wright, Executive Director, P.O. Box 13547, Austin, Texas (512) 424-6682.

Filed: September 11, 1996, 4:35 p.m.

TRD-9613338

Friday, September 20, 1996, 9:00 a.m.

Holiday Inn South, 3401 South IH35

Austin

Internal Audit Committee

AGENDA:

Call to order; excuse absences; discussion and possible action on the 1997 Annual Internal Audit Report; discussion and possible action on the Internal Audit Contract for FY 97; public comment; adjourn.

Contact: Vickie Wright, Executive Director, P.O. Box 13547, Austin, Texas (512) 424-6682.

Filed: September 11, 1996, 4:35 p.m.

TRD-9613339

Friday, September 20, 1996, 9:30 a.m.

Holiday Inn South, 3401 South IH35

Austin

Evaluation Committee Meeting

AGENDA:

Call to order; excuse absences; Closed Executive Session — (This meeting is closed to the public as authorized by the Texas Open Meetings Act as codified in Section 551.074 of the Texas Government Code; discussion of the evaluation tool to be used to evaluate TJCP's executive director's annual performance and to select TJPC staff to

evaluate the executive director; Resume Open Meeting — take any final action; decision or vote on matters deliberated in the Closed meeting by the Evaluation Committee; Adjourn.

Contact: Vickie Wright, Executive Director, P.O. Box 13547, Austin, Texas (512) 424-6682.

Filed: September 11, 1996, 4:35 p.m.

TRD-9613340

Friday, September 20, 1996, 9:30 a.m.

Holiday Inn South, 3401 South IH35

Austin

Board Meeting

AGENDA :

Call to Order; excuse absences; approval of minutes; Budget Committee Report- discussion on the analysis drafted by TJPC staff on Healthy Families Texas Program; discussion and possible action on proposed policy on revenue enhancement by local departments for administrative reimbursement; report on status of Medicaid Insurance Program for Juveniles; Construction Bond Committee Report — discussion and possible action on the TJPC/TDCJ Interagency Cooperation Agreement; Internal Audit Committee Report — discussion and possible action on the 1997 Annual Internal Audit Report, discussion and possible action on the Internal Audit Contract for FY 97; Discussion and possible action on the Buffalo Soldier's Heritage Program; Amendments to the Texas Juvenile Probation Standards for publication in the Texas Register for public comment; Amendments to the Standards for Juvenile Detention Facilities for publication in the Texas Register for public comment; Amendments to the Standards for Secure Post-Adjudication Juvenile Residential Facilities for publication in the Texas Register; Juvenile Justice Alternative Education Program Update; Director's Report Evaluation Committee Report — Closed Executive Session (This meeting is closed to the public as authorized by the Texas Open Meetings Act as codified in Section §51.074 of the Texas Government Code —discussion of the evaluation tool to be used to evaluate TJPC's executive director and the selection of TJPC staff to evaluate the executive director; resume open meeting — take any final action, decision or vote on matters deliberated in the closed meeting by the Evaluation committee; public comments; schedule next meeting; and adjourn.

Contact: Vickie Wright, Executive Director, P.O. Box 13547, Austin, Texas (512) 424-6682.

Filed: September 11, 1996, 4:36 p.m.

TRD-9613341



Texas Department of Licensing and Regulation

Tuesday, September 24, 1996, 9:00 a.m.

920 Colorado, E.O. Thompson Building, 1st Floor, Room 108

Austin

Enforcement Division, Air Conditioning

AGENDA:

According to the complete agenda, the Department will hold an Administrative Hearing to consider the possible assessment of administrative penalties against the Respondent, Victor Mancias, for engaging

in air conditioning and refrigeration contracting without a license in violation of the 16 TEX. ADMIN. CODE (T.A.C.) § 75.22(a), pursuant to the TEX. REV. CIV. STAT. ANN. arts 8861 (the Act) and 9100; TEX. GOV'T. CODE, ch. 2001 (A.P.A.); and 16 T.A.C. ch. 75.

Contact: Paula Hamje, Hearings Examiner, 920 Colorado, E.O. Thompson Building, Austin, Texas 78701, (512) 463-3192.

Filed: September 13, 1996, 11:22 a.m.

TRD-9613447

Wednesday, September 24, 1996, 10:00 a.m.

920 Colorado, E.O. Thompson Building, 1st Floor, Room 108

Austin

Enforcement Division, Air Conditioning

AGENDA:

According to the complete agenda, the Department will hold an Administrative Hearing to consider the possible assessment of administrative penalties against the Respondent, Tracy Eaglin, for engaging in air conditioning and refrigeration contracting without a license in violation of the TEX. REV. CIV. STAT. ANN. art 8861 (the Act) §3B, pursuant to the Act and art. 9100; TEX. GOV'T. CODE ch. 2001 (A.P.A.); and 16 TEX. ADMIN. CODE ch.75.

Contact: Paula Hamje, Hearings Examiner, 920 Colorado, E.O. Thompson Building, Austin, Texas 78701, (512) 463-3192.

Filed: September 13, 1996, 11:23 a.m.

TRD-9613448

Wednesday, September 25, 1996, 9:00 a.m.

920 Colorado, E.O. Thompson Building, 1st Floor, Room 108

Austin

Enforcement Division, Boxing

AGENDA:

According to the complete agenda, the Department will hold an Administrative Hearing to consider the application for a boxing license of Saoul Mamby, Applicant, who is over 35 years of age in accordance with 16 TEX. ADMIN. CODE (T.A.C.) § 61.27(d); TEX. REV. CIV. STAT. ANN. arts. 8501-1 (the Act) and 9100; the TEX. GOV'T. CODE, ch. 2001 (A.P.A.); and 16 T.A.C. ch.61.

Contact: Paula Hamje, Hearings Examiner, 920 Colorado, E.O. Thompson Building, Austin, Texas 78701, (512) 463-3192.

Filed: September 13, 1996, 11:23 a.m.

TRD-9613449



Wednesday, September 25, 1996, 10:00 a.m.

920 Colorado, E.O. Thompson Building, 1st Floor, Room 108

Austin

Enforcement Division, Boxing

AGENDA:

According to the complete agenda, the Department will hold an Administrative Hearing to consider the application for a boxing license of Lionel J. Kelly, Applicant, who is over 35 years of age

in accordance with 16 TEX. ADMIN. CODE (T.A.C.) § 61.27(D); TEX. REV. CIV. STAT. ANN. arts. (8501-1 (the Act) and 9100; the TEX. GOV'T. CODE, ch. 2001 (A.P.A.); and 16 T.A.C. ch.61.

Contact: Paula Hamje, Hearings Examiner, 920 Colorado, E.O. Thompson Building, Austin, Texas 78701, (512) 463-3192.

Filed: September 13, 1996, 11:23 a.m.

TRD-9613450

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Texas Board of Licensure for Professional Medical Physicists

Tuesday, September 24, 1996, 1:00 p.m.

MD Anderson Cancer Center, Department of Diagnostic Radiology, Room B3.4670, 1515 Holcombe Boulevard

Houston

Ethics Committee

AGENDA:

The Committee will discuss and possibly act on: Complaint numbers (95-MP001 and 96-MP001).

Contact: Jeanette Hilsabeck, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6655. To request accommodation under the ADA, please contact Lonzo Kerr, ADA Coordinator in the Office of Civil Rights, at (512) 458-7627 or TDD (512) 458-7708 at least two days prior to the meeting.

Filed: September 16, 1996, 7:58 a.m.

TRD-9613513

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Texas Natural Resource Conservation Commission

Monday, September 23, 1996, 9:00 a.m.

Building C, Room 308E (TNRCC Complex), 12124 Park 35 Circle

Austin

AGENDA :

For a hearing before an administrative law judge of the State Office of Administrative Hearings on an application filed with the Texas Natural Resource Conservation Commission by TRAVIS COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT (WCID) NO. 14 to amend its Certificate of Convenience and Necessity (CCN) No. 11322 which authorizes the provision of water utility service in Travis County, Texas. The applicant also proposed decertification of portions of water CCN No. 12010 issued to Travis County WCID No. 17. The proposed utility service area includes nine areas around its current certificated service area. The general area is located approximately ten miles southwest of downtown Austin, Texas and is generally bounded on the east by FM 1825 and the City of Austin, on the north by FM 620, on the west by Hurst Creek. The total area being requested includes approximately 4,869 acres and 45 current customers. This matter has been designated as SOAH Docket No. 582-96-1642 and will be consolidated with SOAH Docket No. 582-96-0913.

Contact: Melissa Medina, State Office of Administrative Hearings, P.O. Box 13025, Austin, Texas 78711-3025, (512) 475-3445.

Filed: September 12, 1996, 8:38 a.m.

TRD-9613377

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Monday, October 7, 1996, 9:00 a.m.

Building F, Room 5108 (TNRCC Complex), 12015 Park 35 Circle

Austin

AGENDA :

The Texas Natural Resource Conservation Commission has referred the enforcement case on DOMESTIC ENGINEERING OF TEXAS, INC.; DETEX ENVIRONMENTAL, INC.; JERRY EARL LATHAM; JERREL FRANK LATHAM; ROY O'NEAL MOODY; AND IAN EVANS to the State Office of Administrative Hearings (SOAH). SOAH has scheduled a public hearing on the assessment of administrative penalties and requiring certain actions of Domestic Engineering of Texas, Inc.; Detex Environmental, Inc.; Jerry Earl Latham; Jerrel Frank Latham; Roy O'Neal Moody; and Ian Evans, SOAH Docket No.582-96-1464.

Contact: Melissa Medina, State Office of Administrative Hearings, P.O. Box 13087, Austin, Texas 78711-3087, (512) 475-3445.

Filed: September 12, 1996, 9:33 a.m.

TRD-9613380

Wednesday, November 20, 1996, 9:30 a.m.

Room 201S, Building E, 12118 North IH35, TNRCC Park 35 Office Complex

Austin

AGENDA:

TNRCC DOCKET NO. 96-1305. DIS; BARKER-CYPRESS MUNICIPAL UTILITY DISTRICT OF HARRIS COUNTY; request renewal of authority to adopt and impose standby fees in the service area of the District, under the authority of Section 49.231 of the Texas Water Code, 30 Texas Administrative Code Sections 293.141 through 294.152, and under the procedural rules of the commission. The District is requesting a non-uniform debt service standby fee on unimproved property in the district as follows: (A) \$177.48 per equivalent single family connection (ESFC) per year against unimproved property in the re-platted Westglen Subdivision; (B) \$137.16 per ESFC per year against unimproved property in the Glencairn Village Subdivision; and (C) \$106.56 per ESFC per year against unimproved property in the District Commercial Reserves.

Contact: Water Utilities District Administration, Mail Code 152, P.O. Box 13087, Austin, Texas 78711-3025, (512) 239-6161.

Filed: September 13, 1996, 4:15 p.m.

TRD-9613505

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Wednesday, November 20, 1996, 9:30 a.m.

Room 201S, Building E, 12118 North IH35, TNRCC Park 35 Office Complex

Austin

AGENDA :

TNRCC DOCKET NO. 96-1324-. DIS; THREE LAKES MUNICIPAL DISTRICT NO. 1; request renewal of authority to adopt and impose standby fees in the service area of the District, under the authority of Section 49.231 of the Texas Water Code, 30 Texas Administrative Code Sections 293.141 through 293.152, and under the procedural rules of the Commission. The District's application requests authorization to levy standby fees on unimproved property in the maximum amount allowed by Commission rules. The maximum allowable standby fees have been calculated to be as follows: (a) uniform operations and maintenance standby fee on unimproved property in the district of \$31.31 per equivalent single family connection (ESFC) per year, and (b) a non-uniform standby fee for debt service ranging from \$120.10 to \$449.57 per ESFC per year.

Contact: Water Utilities District Administration, Mail Code 152, P.O. Box 13087, Austin, Texas 78711-3025, (512) 239-6161.
Filed: September 16, 1996, 7:58 a.m.

TRD-9613511

Texas Pension Review Board

Thursday, September 26, 1996, 10:00 a.m.

Teacher Retirement System Building, 4th Floor, Room 420, 1000 Red River Street

Austin

Pension Policy and Legislation Subcommittee

AGENDA:

1. Call to Order.
2. Review Lawyer's opinions and take possible action on uniform prudent person investor act.
3. Discussion and possible action on management of Public Employee Funds Act- Report by Gary Lawson.
4. Discussion and possible action on pension obligation bonds.
5. Discussion and possible action on State laws or procedures currently existing that inhibit portfolio performance.
6. Public Testimony.
7. Adjournment

Contact: Lynda Baker, P.O. Box 13498, Austin, Texas 78711, (512) 463-1736.

Filed: September 16, 1996, 7:58 a.m.

TRD-9613510

Public Utility Commission of Texas

Monday, September 30, 1996, 9:00 a.m.

1701 North Congress Avenue

Austin

AGENDA:

A Hearing on the Merits will be held by the State Office of Administrative Hearings in Docket No. 16421-Application of CALL FOR LESS LONG DISTANCE, INC. for a Service Provider

Certificate of Operating Authority. This application was filed on September 11, 1996. CALL FOR LESS is a certified and operating reseller of long distance services. It is Applicant's intent to become a reseller of Southwestern Bell local exchange services (dial tone, custom calling features, etc.). Applicant's requested service area is limited to the service area boundaries of Southwestern Bell Telephone in the State of Texas. Persons who wish to intervene or otherwise participate in these proceedings should make appropriate filings or comments to the Commission by September 25, 1996.

Contact: Paula Mueller, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: September 12, 1996, 1:04 p.m.

TRD-9613387

Railroad Commission of Texas

Tuesday, September 24, 1996, 9:30 a.m.

1701 North Congress Avenue, 1st Floor Conference Room 1-111

Austin

AGENDA:

According to the complete agenda, the Railroad Commission of Texas will consider various applications and other matters within the jurisdiction of the agency including oral arguments at the time specified on the attached agenda. The Railroad Commission of Texas may consider the procedural status of any contested case if 60 days or more have elapsed from the date the hearing was closed or from the date the transcript was received.

Contact: Lindil C. Fowler, Jr., Office of General Counsel, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711, (512) 463-7033.

The Commission may meet in Executive Session on any items listed above as authorized by the Open Meetings Act.

Filed: September 13, 1996, 1:00 p.m.

TRD-9613464

Tuesday, September 24, 1996, 2:00 p.m.

1701 North Congress Avenue, 1st Floor Conference Room 1-111

Austin

AGENDA:

The Commission will hold its monthly statewide hearing on oil and gas to determine the lawful market demand for oil and gas and to consider and/or take action on matters listed on the agenda posted with the Secretary of State's Office.

Contact: Kathy Way, Oil and Gas Division, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711, (512) 463-6729.

Filed: September 13, 1996, 1:00 p.m.

TRD-9613463

Texas Rehabilitation Commission

Friday, September 27, 1996, 9:30 a.m.

4900 North Lamar Boulevard, Brown Heatly Building, Public Hearing Room, 1st Floor

Austin

Regular Board Meeting

AGENDA:

Roll Call

Introduction of Guests

Continuation of Board Agenda from September 26, 1996

Executive Session

Review of potential litigation, personnel practices, and staff presentation involving the Texas Rehabilitation Commission, Disability Determination Services and Management Audit. These subjects will be discussed in Executive Session pursuant to Sections 551.071, 551.074 and 551.075 of the Open Meetings Act (Texas Government Code Annotated § 551.)

Contact: Charles Schiesser, 4900 North Lamar Boulevard, Suite 7300, Austin, Texas 78751, (512) 483-4051 or TDD (512) 483-4045. For ADA assistance, call Oleta Grizzle (512) 483-4057.

Filed: September 13, 1996, 10:53 a.m.

TRD-9613428



Friday, September 27, 1996, 9:30 a.m.

4900 North Lamar Boulevard, Brown Heatly Building, Public Hearing Room, 1st Floor

Austin

Regular Board Meeting

AGENDA:

Roll Call

Introduction of Guests

Continuation of Board Agenda from September 26, 1996

Executive Session: Review of potential litigation, personnel practices, and staff presentations involving the Texas Rehabilitation Commission, Disability Determination Services and Management Audit. These subjects will be discussed in Executive Session pursuant to Sections 551.071, 551.074, and 551.075 of the Open Meetings Act (Texas Government Code Annotated §551).

Adjournment

Contact: Charles Schiesser, 4900 North Lamar Boulevard, Suite 7300, Austin, Texas 78751, (512) 483-4051 or TDD (512) 483-4045. For ADA assistance, call Oleta Grizzle (512) 483-4057.

Filed: September 16, 1996, 4:06 p.m.

TRD-9613427



State Securities Board

Thursday, September 26, 1996 , 9:30 a.m.

Thomas Jefferson Rusk State Office Building, 200 East 10th Street, Room 227

Austin

Board

AGENDA:

1. 5-30-96 Meeting Minutes

2. (A) Published rule proposals to: (1) amend §115.4(g); (2) create new Form 133.8, a power of attorney form; (3) repeal Form 133.8; (4) repeal Form 133.9; (5) repeal Form 133.18; (6) create new Form 133.36, a request for reduced fees for certain persons registered in multiple capacities; and (7) repeal Form 133.26.

2. (B) New rule proposals to: (1) create new Chapter 129, Administrative Guidelines for Registration of Asset-Backed Securities; and (2) amend §113.12.

3. Discussion of SEC Rule 1001 and the corresponding California Exemption.

4. Discussion and possible decisions relating to Agency's participation in State coordinated review of investment company offerings, state coordinated review of equity offerings, and the SCOR regional program.

5. Update on H.R. 3005, The Securities Amendments of 1996 and S.1815, the Securities Investment Promotion Act of 1996..

6. Discussion and possible decision whether to grant a request for a review hearing before the Board of a Consent Order (No. SSO-1121), issued by the Securities Commissioner on 7/12/96, involving the Lloyd's of London Market.

7. New business items for subsequent Board meetings.

8. General update on Agency operations from Securities Commissioner and Senior Staff.

Contact: Denise Voigt Crawford, Securities Commissioner, State Securities Board, 200 East 10th Street, Fifth Floor, Austin, Texas 78701, (512) 305-8300.

Filed: September 16, 1996, 8:46 a.m.

TRD-9613523



Structural Pest Control Board

Tuesday, September 24, 1996, 9:00 a.m.

Joe C. Thompson Conference Center, 2405 East Campus Drive, Rm 3.122

Austin

Public Hearing and Regular Board Meeting

AGENDA:

I. Approval of board Minutes of June 26, 1996.

II. Public Comment and Public Hearing on Sec. 595.6-7, 595.14-15, and 599.4 (change of address) and Sec.599.3, Subterranean Termite Pre-Construction Standards and Section 599.4, Termite Treatment Disclosure Documents.

III. Consider for Adoption Sec. 595.6-7, 595.14-15 and 599.4 (change of address) and Sec. 599.3, subterranean Termite Pre-Construction Standards and Sec. 599.4, Termite Treatment Disclosure Documents.

IV. Continuing Education Task Force Committee Report on Home Study.

V. Consider Proposals for Decisions in Hearings.

VI. Review of Agreed Administrative Penalties and Consent Agreements.

VII. Appoint Committee to Review the Examination Process.

VIII. Review and Adopt Affirmative Action Plan.

IX. Executive Director's Report

X. Set Date for Next Board Meeting.

Contact: Benny Mathis, Executive Director, 1106 Clayton Lane, Austin, Texas 78723, (512) 451-7200.

Filed: September 12, 1996, 2:41 p.m.

TRD-9613402



Sunset Advisory Commission

Tuesday, September 24, 1996, 11:00 a.m.

1400 North Congress, Room E1.030, Capitol Extension

Austin

AGENDA:

Call to order, Approval of minutes, Commission decisions on: Texas Turnpike Authority (postponed business), Department of Protective and Regulatory Services, Texas Racing Commission, Texas Public Finance Authority, Credit Union Commission, Other business, Selection of next meeting date — during the week of November 11, 1996; Adjourn.

Contact: Susan Kinney — 1400 North Congress, Room E2.002, Austin, Texas 78711, (512) 463-1300

Filed: September 13, 1996, 1:50 p.m.

TRD-9613468



U.T. M.D. Anderson Cancer Center

Tuesday, September 17, 1996, 9:00 a.m.

1515 Holcome Boulevard, Room B8-4344

Houston

Institutional Animal Care and Use Committee

AGENDA:

Review of Protocol for Animal Care and Use and Modifications thereof.

Contact: Anthony Mastromarino, Ph.D. Associate Vice President for Research, M.D. Anderson Cancer Center, 1515 Holcombe Boulevard, Box 101, Houston, Texas 77030, (713) 792-3220.

Filed: September 11, 1996, 10:00 a.m.

TRD-9613303



Texas Worker's Compensation Insurance Fund

Tuesday, September 24, 1996, 8:00 p.m.

Four Seasons Hotel, 98 San Jacinto

Austin

Board of Directors

AGENDA:

The Board of Directors of the Texas Worker's Compensation Insurance Fund ("Fund") will have an informal dinner at 8:00 p.m. on Tuesday, September 24, 1996. The dinner is intended as a social event, and there is no formal agenda. No formal action will be taken, but it is possible that discussions could occur which could be construed to be "deliberations" within the meaning of the Open Meetings Act; therefore, the dinner will be treated as an "open meeting" and the public will be allowed to observe. However, dinner will be provided only for the Board of Directors of the Fund and certain staff of the Fund. No dinner or refreshments will be provided members of the public who may wish to attend.

Contact: Jeanette Ward, 221 West 6th Street, Suite 300, Austin, Texas 78701

Filed: September 12, 1996, 4:08 p.m.

TRD-9613414



Research and Oversight Council on Worker's Compensation

Wednesday, September 25, 1996, 10:00 a.m.

Capitol Extension, Room E1.012, 1400 Congress Avenue

Austin

AGENDA

1. Call to Order
2. Roll Call
3. Executive Session

As Authorized by Texas Government Code §551.074, the Board of Directors of the Research and Oversight Council on Worker's Compensation will adjourn into closed Executive Session to consider personnel matters. Following the closed Executive Session, the board will reconvene in open and public session and take any such action as may be desirable or necessary as a result of the closed deliberations.

4. Approval of Minutes from April 25, 1996 and TIS hearing June 4, 1996
5. Report and discussion on Facility transition
6. Reports from agencies
7. ROC business
8. Discussion, public hearing and approval of ROC proposed Research agenda for FY 1997
9. Public participation
10. Set next meeting
11. Adjourn

Contact: Nancy Bitting, 105 West Riverside Drive, Suite 100, Austin, Texas 78704, (512) 469-7811.

Filed: September 12, 1996, 6:29 p.m.

Regional Meetings

Meetings Filed , September 11, 1996

Edwards Aquifer Authority, Special Board, met at 1615 North St. Mary's Street, San Antonio, September 16, 1996 at 6:00 p.m. Information may be obtained from Sally Tamez-Salas, 1615 North St. Mary's Street, San Antonio, Texas 78212, (210) 222-2204. TRD 9613323

Ellis County Appraisal District, Board of Directors, met at 400 Ferris Avenue, Waxahachie, September 19, 1996 at 7:00 p.m. Information may be obtained from R. Richard Rhodes, Jr., P.O. Box 878, Waxahachie, Texas 75168, (214) 937-3552. TRD 9613335.

Henderson County Appraisal District, Appraisal Review Board, met at 1751 Enterprise Street, Athens, September 19, 1996 at 9:00 a.m. Information may be obtained from Lori Fetterman, 1751 Enterprise, Athens, Texas 75751, (903) 675-9296. TRD 9613309

Henderson County Appraisal District, Board of Directors, met at 1751 Enterprise Street, Athens, September 17, 1996 at 5:30 p.m. Information may be obtained from Lori Fetterman, 1751 Enterprise, Athens, Texas 75751, (903) 675-9296. TRD-9613310

Nortex Regional Planning Commission, North Texas Private Industry Council, will meet at 4309 Jacksboro Highway, Suite 200, Galaxy Center Building, Wichita Falls at 12:15 p.m. Information may be obtained from Kelly Couch, PIC Chair, 3917 Texas, Vernon, Texas 76384, (817) 552-6818. TRD 9613325.

Panhandle Information Network, Board of Directors, met at 415 West 8th, Board Room, Amarillo, September 18, 1996 at 1:30 p.m. Information may be obtained from Linda Pitner, WT Box 215, Canyon, Texas 79016, (806) 656-2983. TRD 9613311.

Scurry County Appraisal District, Board of Directors, met at 2612 College Avenue, Snyder, at 8:00 a.m. Information may be obtained from L.R. Peveler, Chief Appraiser, 2612 College Avenue, Snyder, Texas 79549, (915) 573-8549. TRD 9613352.

Wood County Appraisal District, Board of Directors, met at 210 Clark Street, Quitman, at 1:30 p.m. Information may be obtained from W. Carson Wages, P.O. Box 518, Quitman, Texas 75783. (903) 763-4891. TRD 9613324.

Meetings Filed September 12, 1996

Ark-Tex Council of Governments Board, met at Courthouse Annex, Morris County Courthouse, Daingerfield, September 19, 1996 at 5:30 p.m. Information may be obtained from Sandie Brown, P.O. Box 5307, Texarkana, Texas 75505, (903) 832-8636. TRD 9613385.

Austin Transportation Study, US290/Loop 1 Task Force Charge #2 Working Group, met at the Municipal Annex Building, 301 West 2nd Street, Austin, September 18, 1996, at 9:00 a.m. Information may be obtained from Michael R. Aulick, 301 West 2nd Street, Austin, Texas 78701, (512) 499-2275. TRD 9613409.

Brazos Valley Development Council, Solid Waste Advisory Committee, met at 1706 East 29th Street, Bryan, September 16, 1996 at 2:00 p.m. Information may be obtained from Linda McGuill, Manager, Solid Waste Planning, P.O. Drawer 4128, Bryan, Texas 77805-4128, (409) 775-4244. TRD 9613386.

Dallas Housing Authority, Board of Commissioners, will meet at Brooks Manor Housing Development, 630 South Llewellyn, Dallas, September 19, 1996, at 4:00 p.m. Information may be obtained from Betsy Horn, Associate General Counsel, 3939 North Hampton Road, Dallas, Texas 75212, (214) 951-8302. TRD 9613391.

Denton Central Appraisal District, Review Board, will meet at 3911 Morse Street, Denton, September 25, 1996 at 9:00 a.m. Information may be obtained from Kathy Williams, P.O. Box 2816, Denton, Texas 76202-2816. TRD 9613389.

Denton Central Appraisal District, Board of Directors, will meet at 3911 Morse Street, Denton, September 26, 1996 at 4:00 p.m. Information may be obtained from Kathy Williams, P.O. Box 2816, Denton, Texas 76202-2816. TRD 9613388.

East Texas Council of Governments, Board of Directors, met at Highway 155 South and Red Rock Road, Gilmer, September 19, 1996 at 7:30 p.m. Information may be obtained from Glynn Knight, 3800 Stone Road, Kilgore, Texas 75662, (903) 984-8641. TRD 9613384.

Ellis County Appraisal District, Board of Directors, met at 400 Ferris Avenue, Waxahachie, September 19, 1996 at 7:00 p.m. Information may be obtained from Richard Rhodes, Jr., P.O. Box 878, Waxahachie, Texas 75168, (214) 937-3552. TRD 9613354.

Gregg Appraisal District, Board of Directors, met at 2010 Gilmer Road, Longview, September 18, 1996 at 5:00 p.m. Information may be obtained from William T. Carroll, 2010 Gilmer Road, Longview, Texas 75604, (903) 759-0015. TRD 9613400.

Hays County Appraisal District met at 21001 North IH35, Kyle, September 18, 1996 at 9:00 p.m. Information may be obtained from Lynnell Sedlar, 21001 North IH35, Kyle, Texas 78640, (512) 268-2522. TRD 9613418.

Hays County Appraisal District met at 21001 North IH35, Kyle, September 18, 1996 at 3:30 p.m. Information may be obtained from Lynnell Sedlar, 21001 North IH35, Kyle, Texas 78640, (512) 268-2522. TRD 9613416.

Hockley County Appraisal District, Review Board, met at 1103 Houston Street, Levelland, September 17, 1996 at 7:00 a.m. Information may be obtained from Nick Williams, P.O. box 1090, Levelland, Texas 79336, (806) 894-9654. TRD 9613383.

Lake Livingston Water Supply and Sewer Service Corporation, Board of Directors, met at Park Inn, 2500 US Highway 59 South, Livingston, September 19, 1996 at 6:30 p.m. Information may be obtained from John Houchins, 13738 Kingsride, Houston, Texas 77079. TRD 9613415.

Lampasas County Appraisal District, Board of Directors, met at 109 East 5th Street, Lampasas, September 19, 1996 at 7:00 p.m. Information may be obtained from Katrina Perry, Chief Appraiser, P.O. Box 175, Lampasas, Texas 76550, (512) 556-8058. TRD 9613401.

North Central Texas Council of Governments, Executive Board, met at Centerpoint Two, 616 Six Flags Drive, 2nd Floor, Arlington, September 19, 1996 at 12:45 p.m. Information may be obtained from Edwina J. Shires, Director of Public Affairs, NCTCOG, P.O. Box 5888, Arlington, Texas 76005-5888, (817) 640-3300. TRD 9613353.

North Central Texas Council of Governments (NCTCOG) Transportation Department, Regional Transportation Council, will meet

at Carrollton City Council Chambers, 1945 Jackson Road, Carrollton, September 30, 1996, at 6:00 p.m. Information may be obtained from Michael Morris, Director of Transportation, NCTCOG, P.O. Box 5888, Arlington, Texas 76005-5888, (817) 695-9240. TRD 9613411.

North Central Texas Council of Governments (NCTCOG) Transportation Department, Regional Transportation Council, will meet at Duncanville City Council Chambers, 203 East Wheatland Road, Duncanville, October 3, 1996 at 7:00 p.m. Information may be obtained from Michael Morris, Director of Transportation, NCTCOG, P.O. Box 5888, Arlington, Texas 76005-5888, (817) 695-9240. TRD 9613412.

North Central Texas Council of Governments (NCTCOG) Transportation Department, Regional Transportation Council, will meet at Hurst Public Library Meeting Room, 1505 Precinct Line Road, Hurst, October 4, 1996 at 2:00 p.m. Information may be obtained from Michael Morris, Director of Transportation, NCTCOG, P.O. Box 5888, Arlington, Texas 76005-5888, (817) 695-9240. TRD 9613413.

North Texas Municipal Water District, Board of Directors, will meet at Administration Office, 505 E. Brown, Wylie, September 26, 1996 at 4:00 p.m. Information may be obtained from Carl W. Riehn, Executive Director, P.O. Box 2408, Wylie, Texas 75098, (214) 442-5405. TRD 9613381.

North Texas Regional Library System, (Revised Agenda), Board of Directors, will meet at Euless Public Library, 201 North Ector Drive, Euless, September 21, 1996 at 5:00 p.m. Information may be obtained from Cynthia Brown, 1111 Foch Street, Suite 100, Fort Worth, Texas 76107, (817) 335-6076. TRD 9613390.

Panhandle Regional Planning Commission, Board of Directors, met at 6th and Buchanan, Amarillo, September 19, 1996, 3:30 p.m. Information may be obtained from Rebecca Rusk, P.O. Box 9257, Amarillo, Texas 79105, (806) 372-3381. TRD 9613404.

San Antonio River Authority, Board of Directors met at 100 East Guenther Street, Boardroom, San Antonio, September 18, 1996 at 2:00 p.m. Information may be obtained from Fred N. Pfeiffer, General Manager, San Antonio River Authority, P.O. Box 830027, San Antonio, Texas 78283-0027, (210) 227-1373. TRD 9613382.

Meetings Filed September 13, 1996

Alamo Area Council of Governments, Alamo Area Housing Finance, met at 118 Broadway, Suite 400, San Antonio, September 18, 1996, at 11:00 a.m. Information may be obtained from Al J. Notzon III, Executive Director, AACOG, 118 Broadway, Suite 400, San Antonio, Texas 78205, (210) 225-5201. TRD 9613444.

Alamo Area Council of Governments, Rural Area Judges, met at 118 Broadway, Suite 400, San Antonio, September 18, 1996, at 11:30 a.m. Information may be obtained from Al J. Notzon III, Executive Director, AACOG, 118 Broadway, Suite 400, San Antonio, Texas 78205, (210) 225-5201. TRD 9613445.

Alamo Area Council of Governments, Board of Directors, met at 118 Broadway, Suite 400, San Antonio, September 18, 1996, at 1:00 p.m. Information may be obtained from Al J. Notzon III, Executive Director, AACOG, 118 Broadway, Suite 400, San Antonio, Texas 78205, (210) 225-5201. TRD 9613446.

Atascosa County Appraisal District, Board of Directors, met at 4th Street and Avenue J, Poteet, September 19, 1996 at 1:30 p.m. Information may be obtained from Curtis Stewart, P.O. Box 139, Poteet, Texas 78065. (210) 742-3591. TRD 9613459.

Bastrop Central Appraisal District, Board of Directors, met at 1200 Cedar Street, Bastrop, September 19, 1996 at 7:30 p.m. Information may be obtained from Dana Ripley, 1200 Cedar Street, Bastrop, Texas 78602, (512) 303-3536. TRD 9613478.

Bosque Higher Education Authority, Inc. Board of Directors, met at The Northwood Inn, 1609 College Drive, Waco, September 18, 1996, at 12:00 noon. Information may be obtained from Murray Watson, Jr. 2600 Washington Avenue, Waco, Texas 76710, (817) 753-0915. TRD 9613439.

Brazos Higher Education Authority, Inc. Board of Directors, met at The Northwood Inn, 1609 College Drive, Waco, September 18, 1996 at 11:00 a.m. Information may be obtained from Murray Watson, Jr. 2600 Washington Avenue, Waco, Texas 76710, (817) 753-0915. TRD 9613435.

Brazos Student Finance Corporation, Inc., Board of Directors, met at The Northwood Inn, 1609 College Drive, Waco, September 18, 1996 at 11:15 a.m. Information may be obtained from Murray Watson, Jr. 2600 Washington Avenue, Waco, Texas 76710, (817) 753-0915. TRD 9613436.

Brazos Higher Education Service Corporation, Inc., Board of Directors, met at The Northwood Inn, 1609 College Drive, Waco, September 18, 1996 at 11:30 a.m. Information may be obtained from Murray Watson, Jr. 2600 Washington Avenue, Waco, Texas 76710, (817) 753-0915. TRD 9613437.

Brazos Educational Assistance, Inc., Board of Directors, met at The Northwood Inn, 1609 College Drive, Waco, September 18, 1996 at 11:15 a.m. Information may be obtained from Murray Watson, Jr. 2600 Washington Avenue, Waco, Texas 76710, (817) 753-0915. TRD 9613438.

Burke Center, Board of Trustees, will meet at 4101 South Medford Drive, Lufkin, September 24, 1996 at 1:00 p.m. Information may be obtained from Sandra J. Vann, Burke Center, 4101 South Medford Drive, Lufkin, Texas 75901, (409) 639-1141. TRD 9613456.

Clear Creek Watershed Regional Floor Control District, met at 3519 Liberty Drive, Pearland, September 18, 1996 at 5:00 p.m. Information may be obtained from Jeffrey H. Brennan, 4805 West Broadway, Pearland, Texas 77581, (713) 485-1434. TRD 9613473.

Dallas Area Rapid Transit, I-35E HOV Lane Grand Opening met at I-35E HOV Lane Northbound Entrance I-35E, North of Royal Lane, Dallas, September 16, 1996 at 9:30 a.m. Information may be obtained from Paula J. Bailey, DART, P.O. Box 660163, Dallas, Texas 75266-0163, (214) 749-3256. TRD 9613504.

Dallas Area Rapid Transit, Budget Workshop met at 1401 Pacific Avenue, Conference Room "C", Dallas, September 17, 1996, at 12:00 p.m. Information may be obtained from Paula J. Bailey, DART, P.O. Box 660163, Dallas, Texas 75266-0163, (214) 749-3256. TRD 9613476.

Ellis County Appraisal District, Review Board, met at 400 Ferris Avenue, Waxahachie, September 19, 1996 at 9:00 a.m. Information may be obtained from Dorothy Phillips, P.O. Box 878, Waxahachie, Texas 75165, (214) 937-3552. TRD 9613480.

Falls County Appraisal District, Review Board, will meet at Falls County Courthouse, Intersection of Hwys. 6 and 7, Marlin, September 15, 1996 at 9:00 a.m. Information may be obtained from Joyce Collier, P.O. Box 430, Marlin, Texas 76661, (817) 883-2543. TRD 9613469.

Golden Crescent Private Industry Council, Oversight Committee, met at 2401 Houston Highway, Victoria, September 16, 1996 at 6:30 p.m. Information may be obtained from Sandy Heiermann, 2401 Houston Highway, Victoria, Texas 77901, (512) 576-5872. TRD 9613442.

Golden Crescent Private Industry Council, Executive Committee, met at 2401 Houston Highway, Victoria, September 18, 1996 at 6:30 p.m. Information may be obtained from Sandy Heiermann, 2401 Houston Highway, Victoria, Texas 77901, (512) 576-5872. TRD 9613443.

Gonzales County Appraisal District, Board of Directors, met at 928 St. Paul, Gonzales, September 18, 1996 at 7:00 p.m. Information may be obtained from Connie Barfield, Recorder, or Glenda Strackbein, Chief Appraiser, 928 St. Paul, Gonzales, Texas 78629, (210) 672-2879. TRD 9613491.

Gonzales County Appraisal District, Review Board, met at 928 St. Paul, Gonzales, September 19, 1996 at 9:00 a.m. Information may be obtained from Connie Barfield, Recorder, or Glenda Strackbein, Chief Appraiser, 928 St. Paul, Gonzales, Texas 78629, (210) 672-2879. TRD 9613492.

Grayson Appraisal District, Board of Directors, will meet at 205 North Travis, Sherman, September 25, 1996 at 12:00 p.m. Information may be obtained from Angie Keeton, 205 North Travis, Sherman, Texas 75090, (903) 893-9673. TRD 9613458.

Heart of Texas Council of Governments, Private Industry Council, met at 300 Franklin Avenue, Waco, September 19, 1996 at 5:30 p.m. Information may be obtained from Donna Teat, 300 Franklin Avenue, Waco, Texas 78701, (817) 756-7822. TRD 9613424.

Heart of Texas Council of Governments, Executive Committee, will meet at 300 Franklin Avenue, Waco, October 3, 1996 at 10:00 a.m. Information may be obtained from Donna Teat, 300 Franklin Avenue, Waco, Texas 78701, (817) 756-0102. TRD 9613425.

Heart of Texas Housing Finance Corporation, Board, met at 300 Franklin Avenue, Waco, September 18, 1996 at 12:00 noon. Information may be obtained from Lyndon Olson, 510 North Valley Mills Drive, Suite 600, Waco, Texas 78710, (817) 776-3336. TRD 9613489.

Johnson County Rural Water Supply Corporation, Tariff Committee, met at the Corporation Office, 2849 Highway 171 South, Cleburne, September 16, 1996 at 5:30 p.m. Information may be obtained from Peggy Johnson, P.O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD 9613451.

Johnson County Rural Water Supply Corporation, Regular Monthly Board Meeting, met at the Corporation Office, 2849 Highway 171 South, Cleburne, September 16, 1996 at 6:00 p.m. Information may be obtained from Peggy Johnson, P.O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD 9613453.

Johnson County Rural Water Supply Corporation, Tariff Committee, met at the Corporation Office, 2849 Highway 171 South, Cleburne, September 16, 1996 at 7:00 p.m. Information may be obtained from Peggy Johnson, P.O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD 9613452.

Johnson County Central Appraisal District, Review Board, met at 109 North Main, ARB Conference Room, Cleburne, September 17, 18, and 19, 1996 at 9:00 a.m. Information may be obtained from Don Gilmore, 109 North Main, Cleburne, Texas 76031, (817) 645-3986. TRD 9613422.

Johnson County Rural Water Supply Corporation, Training and Seminars Committee, met at the Corporation Office, 2849 Highway 171 South, Cleburne, September 17, 1996 at 5:50 p.m. Information may be obtained from Peggy Johnson, P.O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD 9613457.

Lower Colorado River Authority, Energy Operations Committee, met at 425 Spring Street, Stafford Opera House, Columbus, September 18 and reconvening if necessary September 19th, 1996 at 9:00. Information may be obtained from Glen E. Taylor, P.O. Box 220, 3701 Lake Austin Boulevard, Austin, Texas 78767, (512) 473-3283. TRD 9613484.

Lower Colorado River Authority, Planning and Public Policy Committee, met at 425 Spring Street, Stafford Opera House, Columbus, September 18 and reconvening if necessary September 19th, 1996 at 9:00. Information may be obtained from Glen E. Taylor, P.O. Box 220, 3701 Lake Austin Boulevard, Austin, Texas 78767, (512) 473-3283. TRD 9613483.

Lower Colorado River Authority, Board of Directors, met at 425 Spring Street, Stafford Opera House, Columbus, September 18 and reconvening if necessary September 19th, 1996 at 9:00 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, 3701 Lake Austin Boulevard, Austin, Texas 78767, (512) 473-3283. TRD 9613481.

Lower Colorado River Authority, Emerging Issues Committee, met at 425 Spring Street, Stafford Opera House, Columbus, September 18 and reconvening if necessary September 19th, 1996 at 9:00 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, 3701 Lake Austin Boulevard, Austin, Texas 78767, (512) 473-3283. TRD 9613482.

Lower Colorado River Authority, Regional Development Committee, met at 425 Spring Street, Stafford Opera House, Columbus, September 18 and reconvening if necessary September 19th, 1996 at 9:00 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, 3701 Lake Austin Boulevard, Austin, Texas 78767, (512) 473-3283. TRD 9613487.

Lower Colorado River Authority, Finance and Administration Committee, met at 425 Spring Street, Stafford Opera House, Columbus, September 18 and reconvening if necessary September 19th, 1996 at 9:00 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, 3701 Lake Austin Boulevard, Austin, Texas 78767, (512) 473-3283. TRD 9613486.

Lower Colorado River Authority, Land and Water Operations Committee, met at 425 Spring Street, Stafford Opera House, Columbus, September 18 and reconvening if necessary September 19th, 1996 at 9:00 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, 3701 Lake Austin Boulevard, Austin, Texas 78767, (512) 473-3283. TRD 9613485.

Lower Colorado River Authority, Audit Committee, met at 425 Spring Street, Stafford Opera House, and reconvening if necessary September 19th, 1996 at 9:00 a.m. Information may be obtained from

Glen E. Taylor, P.O. Box 220, 3701 Lake Austin Boulevard, Austin, Texas 78767, (512) 473-3283. TRD 9613488.

MHMR Authority of Brazos Valley, Board of Trustees, met at 1504 South Texas Avenue, Bryan, September 19, 1996 at 1:00 p.m. Information may be obtained from Leon Bawcom, Executive Director, MHMR Authority of Brazos, P.O. Box 4588, Bryan, Texas 77802, (409) 822-6467. TRD 9613460.

North Central Texas Council of Governments, Workforce Development Board, will meet at 616 Six Flags Drive, 2nd Floor, Arlington, September 24, 1996 at 9:30 a.m. Information may be obtained from Casandra J. Vines, NCTCOG, P.O. Box 5888, Arlington, Texas 76005-5888, (817) 695-9176. TRD 9613421.

Northeast Texas Rural Rail Transportation District Board met at Best Western Trail Dust, I-30 South, Sulphur Springs, September 16, 1996 at 9:00 a.m. Information may be obtained from Sue Ann Harting, P.O. Box 306, Commerce, Texas 75428-0306, (903) 450-0140. TRD 9613462.

Northeast Texas Rural Rail Transportation District Board met at Best Western Trail Dust, I-30 South, Sulphur Springs, September 17, 1996 at 9:00 a.m. Information may be obtained from Sue Ann Harting, P.O. Box 306, Commerce, Texas 75428-0306, (903) 450-0140. TRD 9613461.

North Texas Regional Library System, (System) Board of Directors, will meet at Mineral Wells Student Activity Building 735, Hood Road, Wolter's Industrial Park, Mineral Wells, September 26, 1996 at 10:00 a.m. Information may be obtained from Cynthia Brown, 1111 Foch Street, Suite 100, Fort Worth, Texas 76107, (817) 335-6076. TRD 9613467.

North Texas Regional Library System, Board of Directors, will meet at Mineral Wells Student Activity Building 735, Hood Road, Wolter's Industrial Park, Mineral Wells, September 26, 1996 at 1:30 p.m. Information may be obtained from Cynthia Brown, 1111 Foch Street, Suite 100, Fort Worth, Texas 76107, (817) 335-6076. TRD 9613466.

Pecos Higher Education Authority, Inc., Board of Directors, met at The Northwood Inn, 1609 College Drive, Waco, September 18, 1996, 12:15 p.m. Information may be obtained from Murray Watson, Jr. 2600 Washington Avenue, Waco, Texas 76710, (817) 753-0915. TRD 9613440.

Pecos Higher Education Authority, Inc., Board of Directors, met at The Northwood Inn, 1609 College Drive, Waco, September 18, 1996, 12:30 p.m. Information may be obtained from Murray Watson, Jr. 2600 Washington Avenue, Waco, Texas 76710, (817) 753-0915. TRD 9613441.

Sabine Valley Center, Care and Treatment Committee, met at 107 Woodbine Place, Judson Road, Longview, September 19, 1996 at

6:00 p.m. Information may be obtained from Inman White, Executive Director, or LaVerne Moore, P.O. Box 6800, Longview, Texas 75608, (903) 237-2362. TRD 9613507.

Sabine Valley Center, Care and Treatment Committee, met at 107 Woodbine Place, Judson Road, Longview, September 19, 1996 at 7:00 p.m. Information may be obtained from Inman White, Executive Director, or LaVerne Moore, P.O. Box 6800, Longview, Texas 75608, (903) 237-2362. TRD 9613506.

Sharon Water Supply corporation, Special Meeting, met at the Office of Sharon Water Supply Corporation, Route 5, Box 50361, Winnsboro, September 17, 1996, at 7:00 p.m. Information may be obtained from Gerald Brewer, Route 5, Box 50361, Winnsboro, Texas 75494, (903) 342-3525. TRD 9613490.

South Texas Workforce Development Board met at 800 Garden Street, Laredo, September 18, 1996 at 4:30 p.m. Information may be obtained from Mrs. Myrna V. Herbst, P.O. Box 1757, Laredo, Texas 78044-1757, (210) 722-0546. TRD 9613454.

Swisher County Appraisal District, Board of Directors, met at 130 North Armstrong, Tulia, September 19, 1996 at 7:30 p.m. Information may be obtained from Rose Lee Powell, P.O. Box 8, Tulia, Texas 79088, (806) 995-4118. TRD 9613472.

Meetings Filed September 16, 1996

Education Service Center, Region XI, Board of Directors will meet at 3001 North Freeway, Fort Worth, September 24, 1996, at 10:00 a.m. Information may be obtained from Dr. Ray L. Chancellor, 3001 North Freeway, Fort Worth, Texas 76106, (817) 625-5311. TRD-9613526.

Ellis County Appraisal District, Board of Directors, (revised agenda) met at 400 Ferris Avenue, Waxahachie, September 19, 1996 at 7:00 p.m. Information may be obtained from Richard Rhodes, Jr., P.O. Box 878, Waxahachie, Texas 75165, (972) 937-3552. TRD 9613530.

Lee County Appraisal District, Board of Directors, will meet at 218 East Richmond Street, Giddings, September 25, 1996 at 9:00 a.m. Information may be obtained from Roy L. Holcomb, Chief Appraiser, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9618. TRD 9613531.

TML Group Benefits Risk Pool, Board of Trustees, will meet at Four Seasons Resort and Club, 4150 North MacArthur Boulevard, Irving, September 20, 1996 at 8:00 a.m. Information may be obtained from Gayle Gardner, TML Group Benefits Risk Pool, 1821 Rutherford Lane, Suite 300, Austin, Texas 78754, (512) 719-6521. TRD 9613527.

IN ADDITION

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

Comptroller of Public Accounts

Local Sales Tax Changes Effective October 1, 1996

The 1.0% city sales and use tax will become effective October 1, 1996, in the following cities:

026 - Local Sales Tax Rate Changes Effective October 1, 1996 - figure 1.

<u>City Name</u>	<u>City Code</u>	<u>New Rate</u>	<u>Total Rate</u>
Center Point (Kerr County)	2133037	0.01000	0.07750
Los Indios (Cameron County)	2031174	0.01000	0.07250
Parker (Collin County)	2043223	0.01000	0.07250
*Sunset (Montague County)	2169043	0.01500	0.07750

*The city of Sunset adopted 1.0% city sales and use tax and also adopted an additional 0.5% city sales and use tax for economic and industrial development. Both taxes will become effective October 1, 1996. The new rate and the total rate include both tax types.

An additional 0.5% county sales and use tax will become effective October 1, 1996, in the following counties:

026 - Local Sales Tax Rate Changes Effective October 1, 1996 - figure 2.

<u>County Name</u>	<u>City Code</u>	<u>New Rate</u>	<u>Total Rate</u>
Madison County	4154004	0.00500	0.06750
Val Verde County	4233009	0.00500	0.06750

MADISON: The cities of Madisonville and Midway are currently collecting a 1.5% city sales tax. The total rate for each city will be 0.08250.

The city of Normangee is currently collecting a 1.0% city sales tax. The total rate in the portion of the city that is within Madison County will be 0.07750.

The total rate for the 11 cities in the county that have not adopted city sales tax and for the unincorporated areas of Madison County will be 0.06750.

VAL VERDE: The city of Del Rio is currently collecting a 1.5% city sales tax. Its total rate will be 0.08250.

The total rate for the six cities in the county that have not adopted city sales tax and for the unincorporated areas of Val Verde County will be 0.06750.

An additional 0.25% city sales and use tax for improving and promoting economic and industrial development will become effective October 1, 1996, in the city of Leonard (Fannin County), City Code 2074047, New Rate 0.01500, Total Rate 0.08250.*

An additional 0.5% city sales and use tax for improving and promoting economic and industrial development will become effective October 1, 1996, in the following cities:

026 - Local Sales Tax Rate Changes Effective October 1, 1996 - figure 3.

<u>City Name</u>	<u>City Code</u>	<u>New Rate</u>	<u>Total Rate</u>
Allen (Collin County)	2043072	0.02000	0.08250
Bronte (Coke County)	2041029	0.01500	0.07750
Clarksville (Red River County)	2194015	0.01500	0.08250
Clear Lake Shores (Galveston County)	2084081	0.01500	0.07750
Coppell (Dallas County)	2057262	0.01500	0.07750
Coppell (Denton County)	2057262	0.01500	0.07750
*Crandall (Kaufman County)	2129060	0.02000	0.08250
*Cuero (DeWitt County)	2062032	0.02000	0.08250
Dayton (Liberty County)	2146023	0.01500	0.08250
Driscoll (Nueces County)	2178060	0.01500	0.08250
Floresville (Wilson County)	2247030	0.01500	0.07750
Goliad (Goliad County)	2088014	0.02000	0.08250
Hale Center (Hale County)	2095033	0.01500	0.08250
Hamilton (Hamilton County)	2097013	0.01500	0.08250
*Hutchins (Dallas County)	2057093	0.02000	0.08250
*Hutto (Williamson County)	2246059	0.02000	0.08250
Italy (Ellis County)	2070096	0.01500	0.07750
*Live Oak (Bexar County)	2015156	0.02000	0.08250
Lockhart (Caldwell County)	2028017	0.01500	0.08250
*Lumberton (Hardin County)	2100045	0.02000	0.08250
McGregor (McLennan County)	2161112	0.01500	0.08250
*Needville (Fort Bend County)	2079024	0.02000	0.08250
*Pilot Point (Denton County)	2061042	0.02000	0.08250
Presidio (Presidio County)	2189021	0.02000	0.08250
Red Oak (Ellis County)	2070078	0.02000	0.08250
Rising Star (Eastland County)	2067055	0.01500	0.07750
*Santa Anna (Coleman County)	2042019	0.02000	0.08250
Snook (Burleson County)	2026037	0.01500	0.08250
*Spearman (Hansford County)	2098012	0.02000	0.08250
*Sunset (Montague County)	2169043	0.01500	0.07750
Trophy Club (Denton County)	2061266	0.01500	0.07750
*Van Alstyne (Grayson County)	2091037	0.02000	0.08250
Westlake (Denton County)	2220371	0.02000	0.08250
Westlake (Tarrant County)	2220371	0.02000	0.08250

An additional 1.0% city sales and use tax for improving and promoting economic and industrial development will become effective October 1, 1996, in the following cities:

026 - Local Sales Tax Rate Changes Effective October 1, 1996 - figure 4.

<u>City Name</u>	<u>City Code</u>	<u>New Rate</u>	<u>Total Rate</u>
Farmersville (Collin County)	2043054	0.02000	0.08250
Hearne (Robertson County)	2198011	0.02000	0.08250
Nocona (Montague County)	2169016	0.02000	0.08250

An additional 0.25% sales tax for property tax relief will become effective October 1, 1996, in the city of Bules (Tarrant County), City Code 2220166, New Rate 0.01750, Total Rate 0.08250, and the city of Leonard (Fannin County), City Code 2074047, New Rate 0.01500, Total Rate 0.08250.*

An additional 0.375% sales tax for property tax relief will become effective October 1, 1996, in the city of Sherman (Grayson County), City Code 2091028, New Rate 0.01750, Total Rate 0.08000.

An additional 0.5% sales tax for property tax relief will become effective October 1, 1996, in the following cities:

026 - Local Sales Tax Rate Changes Effective October 1, 1996 - figure 5.

<u>City Name</u>	<u>City Code</u>	<u>New Rate</u>	<u>Total Rate</u>
Clarendon (Donley County)	2065011	0.02000	0.08250
Cotulla (La Salle County)	2142018	0.02000	0.08250
*Crandall (Kaufman County)	2129060	0.02000	0.08250
Crane (Crane County)	2052016	0.01500	0.07750
*Cuero (DeWitt County)	2062032	0.02000	0.08250
Denison (Grayson County)	2091019	0.02000	0.08250
*Hutchins (Dallas County)	2057093	0.02000	0.08250
*Hutto (Williamson County)	2246059	0.02000	0.08250
Kountze (Hardin County)	2100027	0.02000	0.08250
*Live Oak (Bexar County)	2015156	0.02000	0.08250
*Lumberton (Hardin County)	2100045	0.02000	0.08250
*Needville (Fort Bend County)	2079024	0.02000	0.08250
*Pilot Point (Denton County)	2061042	0.02000	0.08250
Poteet (Atascosa County)	2007021	0.01500	0.08250
Rockwall (Rockwall County)	2199029	0.02000	0.08250
*Santa Anna (Coleman County)	2042019	0.02000	0.08250
*Spearman (Hansford County)	2098012	0.02000	0.08250
*Van Alstyne (Grayson County)	2091037	0.02000	0.08250
West Lake Hills (Travis County)	2227025	0.01500	0.07750

*These cities have a rate increase for economic and industrial development and a rate increase for property tax relief. Both rate increases will become effective October 1, 1996. The new rate and the total rate include both rate increases.

Issued in Austin, Texas, on September 10, 1996.

TRD-9613234

Martin E. Cherry

Chief, General Law Section

Comptroller of Public Accounts

Filed: September 10, 1996

Texas Education Agency

Correction of Error

The Texas Education Agency submitted an Open Meeting Notice for the Texas Task on Educational Technologies. The notice appeared in the August 16, 1996, issue of the *Texas Register* (21 TexReg 7734).

In the section of the notice that lists the contact information, the phrase "or by e-mail at cynthia@tenet.edu." is missing following the phone number.

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Request for Proposals Concerning Investment Consultant Services for the Texas Permanent School Fund

Eligible Proposers. The Texas Education Agency (TEA) is requesting proposals from qualified investment companies to provide consultant services to the Texas Permanent School Fund (PSF).

Description. The purpose of this RFP is to solicit information that will aid the State Board of Education (SBOE) in selecting one or more independent investment consultants to provide long-term investment strategic plan recommendations for the PSF; develop continuing education programs on investments for members of the SBOE; conduct investment performance evaluations for internal and external PSF managers; and perform other services related to the management and administration of the PSF.

Dates of Project. Proposers should plan for a starting date of no earlier than November 11, 1996, and an ending date of no later than December 31, 1998.

Project Amount. The total amount of the contract is subject to a negotiated bid.

Selection Criteria. The contract will be awarded based on an evaluation of the proposer's ability to provide the requested services; the demonstrated competence and qualifications of the proposer; and the reasonableness of the proposed fee.

The TEA is not obligated to execute a resulting contract, provide funds, or endorse any proposal that is submitted in response to this RFP. This RFP does not commit TEA to pay any costs incurred before a contract is executed. The issuance of this RFP does not obligate TEA to award a contract or pay any costs incurred in the preparation of a response.

Requesting the Proposal. A copy of the complete RFP #701-96-035 may be obtained by writing to: Document Control Center, Room 6-108, Texas Education Agency, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701-1494, or by calling (512) 463-9304. Please refer to the RFP number in your request.

Further Information. For clarifying information about the RFP, contact Dean Murray, Investment Office, Texas Education Agency, (512) 463-9169.

Deadline for Receipt of Proposals. Proposals must be received in the Document Control Center of the Texas Education Agency by 5:00 p.m. (Central Standard Time), Monday, October 21, 1996, to be considered.

Issued in Austin, Texas, on September 16, 1996.

TRD-9613532

Criss Cloudt

Associate Commissioner for Policy Planning and Research

Texas Education Agency

Filed: September 16, 1996

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Texas Commission on Fire Protection

Correction of Error

The Texas Commission on Fire Protection submitted for withdrawal §§439.5, 439.7, 439.9, 439.15, and 439.17. The withdrawal appeared

in the September 6, 1996, issue of the *Texas Register* (21 TexReg 8586).

Section 439.9 was omitted in the publication.

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Texas Department of Health

Correction of Error

The Texas Department of Health adopted §§117.1–117.3, §§117.11–117.16, and §§117.31–117.34. The rules appeared in the August 30, 1996, issue of the *Texas Register* (21 TexReg 8285, 8287, and 8289).

Concerning §117.2 Definitions (21 TexReg 8287), the definition for “Physician” should read “An individual who is...” instead of “In individual who is...”. The definition for “Supervision” is running concurrent with the definition of “Supervising nurse” under subparagraph (B). This needs to be separated.

Concerning §§117.11–117.16, the heading “Subchapter E.” is wrong; the correct heading is “Subchapter B.”

Concerning §117.31(a)(6), (21 TexReg 8290), the word “presure” is spelled wrong; the correct spelling is “pressure”.

Concerning §117.33(b)(13), (21 TexReg 8292), a sentence was omitted. The following sentence should be added to the end of the paragraph: “A calibrated loop may not be used in microbiological testing of water samples.”

Concerning §117.43(e)(5), (21 TexReg 8297), the word “ten” should be “12” as follows: “...patient care for every 12 patients or portion thereof.”

Concerning §117.43(n), (21 TexReg 8300), “§117.44. Qualifications of Staff.” was inadvertently tacked on the end of the paragraph and should be deleted.

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Correction of Error

The Texas Department of Health proposed §229.261. The rule appeared in the August 13, 1996, issue of the *Texas Register* (21 TexReg 7637).

On page 7638, subsection (b), the word “the” before “Administrative Procedure Act” should be bold print to indicate new language.

On page 7639, the language of clause (i) of subsection (h)(f)(4)(A) is new language and should be in bold print.

On page 7639, the language of subparagraphs (E)-(I) of subsection (i)(g)(1) is new language and should be in bold print.

On page 7640, the language of subparagraphs (D)-(J) of subsection (i)(g)(2) is new language and should be in bold print.

On page 7640, the language of subparagraphs (E)-(P) of subsection (i)(g)(3) is new language and should be in bold print.

On page 7640–7641, the language of subparagraphs (D)-(J) of subsection (i)(g)(4) is new language and should be in bold print.

On page 7641, the language of subparagraphs (F)-(H) of subsection (i)(g)(5) is new language and should be in bold print.

Statewide Health Coordinating Council (SHCC)

Extension of Public Comment Period for the Texas State Health Plan Update

The Statewide Health Coordinating Council is extending the public comment period for the proposed Texas State Health Plan Update for 1997-1998. The previous announcement was published in the *Texas Register* (21 TexReg 7921). The new deadline for submission is through October 3, 1996.

Issued in Austin, Texas, on September 16, 1996.

TRD-9613512

Susan K. Steeg

General Counsel

Statewide Health Coordinating Council (SHCC)

Filed: September 16, 1996



Texas Health and Human Services Commission (HHSC)

Notice of Public Briefing

The Texas Health and Human Services Commission (HHSC) will hold a public briefing on Thursday, September 26, 1996, 10:00-11:00 a.m. in room E2.016 of the Capitol Extension. The one-hour briefing provides an opportunity to address HHSC activities and answer your questions. Agenda items include Welfare Reform and Medicaid Managed Care. For more information, please call Cecilia Berrios at (512) 424-6512. Persons with disabilities who may require special assistance may contact Ms. Berrios

Issued in Austin, Texas, on September 16, 1996.

TRD-9613534

Marina Henderson

Executive Deputy Commissioner, Legal and Legislative Affairs

Texas Health and Human Services Commission

Filed: September 16, 1996

Texas Department of Human Services

Public Notice-Letter of Intent for Hotsite Services

The Texas Department of Human Services (TDHS) desires to enter into a Hotsite Services agreement to create a disaster recovery capability for its Unisys mainframe platforms. This would be accomplished by establishing an "unattended" Hotsite mainframe environment.

TDHS intends to relocate its Unisys M2200/9212 Development mainframe and related peripherals to the location. The equipment would be operated remotely by DHS personnel located at the DHS central data center facility. TDHS may require additional services to be made available through the Hotsite Services contract

General Requirements:

Item 1 EQUIPMENT - STK (Storage Technology, Inc.) hardware, software, configurations/installation, licensing and maintenance fees necessary to provide the tape processing resources utilizing channel extension technology to create dual access between TDHS Winters Data Center and the Hotsite will be required.

Item 2 COMMUNICATIONS - Hardware, software, circuits, configurations/installation, licensing and maintenance fees necessary to establish communications between the Hotsite and TDHS locations will be required.

Item 3 SUPPORT - Offeror may identify additional services available in support of the Hotsite facility and mainframe environments which may enhance the operational support level of the Hotsite.

Item 4 FACILITY - The facility in which the equipment is housed must have an environment suitable for housing mainframe computer equipment, no less than 2,000 square feet of raised floor, ceiling heights not less than 96 inches, 24 hour security, 24 hour controlled access via electronic key, support 165 KVA of UPS-supplied power, air conditioning (air cooled 202741 BTU/HR, water cooled 51534 BTU/HR total CFM 4760) and dock accessibility.

The facility must be located within a 30 mile radius of Austin, Texas. The facility must be within the Austin Local Access Transport Area (LATA) and must be ready for TDHS to begin equipment installation within 60 days of contract award. The contract term is to be for two years with options for three, one year extensions.

A copy of the document that specifies the detailed requirements is available from Ginnie Hodde, Texas Department of Human Services, PO Box 149030, Mail Code W-103, Austin, Texas 78714, (512) 438-3561. Requests for the Hotsite Services specifications document will be accepted up to 3:00 p.m. CDT, Monday, September 23, 1996.

Issued in Austin, Texas, on September 11, 1996.

TRD-9613417

Glen Scott

Agency Liaison

Texas Department of Human Services

Filed: September 12, 1996



Texas Department of Insurance

Correction of Error

The Commissioner of Insurance adopted exempt filings. The adoptions appeared in the August 6, 1996, issue of the *Texas Register* (21 TexReg 7431 and 7432).

The effective dates were published incorrectly. The effective date for TRD #9611011 should read as August 23, 1996, and TRD #9611012 should read as November 1, 1996.



Notice of Applications by Small Employer Carriers to be Risk-Assuming Carriers

Notice is given to the public of the application of the listed small employer carrier to be a risk-assuming carrier under Texas Insurance Code Article 26.52. A small employer carrier is defined by Chapter 26 of the Texas Insurance Code as a health insurance carrier that offers, delivers or issues for delivery, or renews small employer health benefit plans subject to the chapter. A risk-assuming carrier is defined by Chapter 26 of the Texas Insurance Code as a small employer carrier that elects not to participate in the Texas Health Reinsurance System. The following small employer carrier has applied to be a risk-assuming carrier:

One Health Plan of Texas, Inc.

The application is subject to public inspection at the offices of the Texas Department of Insurance, Financial Monitoring Unit, 333 Guadalupe, Hobby Tower 3, 3rd Floor, Austin, Texas.

If you wish to comment on this application to be a risk-assuming carrier, you must submit your written comments within 60 days after publication of this notice in the Texas Register to Caroline Scott, Chief Clerk, Mail Code 113-1C, Texas Department of Insurance, P. O. Box 149104, Austin, Texas 78714-91204. An additional copy of the comments must be submitted to Mike Boerner, Managing Actuary, Actuarial Division of the Financial Program, Mail Code 304-3A, Texas Department of Insurance, P. O. Box 149104, Austin, Texas 78714-9104. Upon consideration of the application, if the Commissioner is satisfied that all requirements of law have been met, the Commissioner or his designee may take action to approve the application to be a risk-assuming carrier.

Issued in Austin, Texas, on September 12, 1996

TRD-9613494

Caroline Scott

General Counsel and Chief Clerk

Texas Department of Insurance

Filed: September 13, 1996

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Notice of Public Hearing

A public hearing originally scheduled before the Commissioner of Insurance for October 8, 1996, at 1:30 p.m. under Docket Number 2251 in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas, has been changed to Room 102. The hearing is to consider a Request for Proposals for certain examination services for examination of Health Maintenance Organizations.

Notice of the hearing was published in September 10, 1996, issue of the *Texas Register* (21 TexReg 8788).

Issued in Austin, Texas, on September 12, 1996

TRD-9613495

Caroline Scott

General Counsel and Chief Clerk

Texas Department of Insurance

Filed: September 13, 1996

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Notice of Public Hearing for Private Passenger and Commercial Automobile Insurance Benchmark Rates

Notice is hereby given that a hearing under Docket Number 454-96-1639.G will be held before an administrative law judge (ALJ) of the State Office of Administrative Hearings (SOAH) at 10:00 a.m. on December 10, 1996, and continuing thereafter at dates, times and places designated by the ALJ until conclusion. The purpose of the hearing is to establish benchmark rates for private passenger and commercial automobile insurance, including the spreading of the benchmark rates among relevant classifications and territories. The hearing will be held at SOAH, Suite 502 of the William Clements State Office Building at 300 West 15th Street, Austin, Texas 78701.

Authority, Jurisdiction and Statutes and Rules Involved

The commissioner has jurisdiction and legal authority over the subject matter of this hearing pursuant to the Texas Insurance Code, Article 5.101. Pursuant to the Texas Insurance Code, Article 1.33B(b), SOAH shall conduct the hearing. Statutes involved include Articles 5.101 and 5.131 and Subchapter A of Chapter 5 of the Texas Insurance Code.

The procedure of the hearing will be governed by Texas Insurance Code, Article 1.33B, the Rules of Practice and Procedure For Industry-Wide Rate Cases before the department (Texas Administrative Code, Title 28, Chapter 1, Subchapter L), the Rules of Practice and Procedure before the department (Texas Administrative Code, Title 28, Chapter 1, Subchapter A), the Memorandum of Understanding between the department and SOAH (Texas Administrative Code, Title 28, Chapter 1, §1.90), the Administrative Procedure Act (Texas Government Code, Chapter 2001) and SOAH's Rules of Procedures (Texas Administrative Code, Title 1, Chapter 155).

Matters to be Considered

The commissioner will consider testimony presented and information filed by insurers, the Office of Public Insurance Counsel and other interested parties relating to the determination of benchmark rates for private passenger and commercial automobile insurance, including the spreading of the benchmark rate among relevant classifications and territories. The commissioner has the statutory authority and duty pursuant to Article 5.101 of the Texas Insurance Code to promulgate a benchmark rate for each line of insurance subject to Article 5.101, including private passenger and commercial automobile insurance, after notice and hearing. Relevant data to be used in the rate case will be available from the department.

The commissioner shall set the benchmark rate for each subject line of insurance to produce a range that promotes stability and that produces rates that are just, reasonable, adequate and not excessive for the risks to which they apply, and not confiscatory. In promulgating the benchmark rate, the commissioner may give due consideration to the factors listed in Article 5.101, §3(c) of the Texas Insurance Code.

The commissioner requests evidence on the following additional matters to be adduced at the hearing:

1. Factors other than actuarial rate indications which may be relevant in the setting of benchmark rates, including, but not limited to, the extent and nature of competition in Texas automobile insurance markets; the availability or lack of availability in Texas automobile insurance markets; the level and range of rates and rate changes among insurers in Texas automobile insurance markets; the extent of denials and restrictions of coverage in Texas automobile insurance markets; the number, nature and impact of new entries, mergers and exits by insurers from Texas automobile insurance markets; and the volume of cancellations and non-renewals in Texas automobile insurance markets.

2. Historical premiums written in rate regulated, non-rate regulated and surplus lines markets by line of insurance (private passenger or commercial automobile) and coverage (liability or physical damage) from 1990 through 1995.

3. Class and Territory relativity methodologies and recommendations for all coverages, including review of big city and small city territory groupings to be used in developing rate indications by coverage, class and territory. Provide analyses with and without Class 6A, 6B and 6C relativities set equal to Class 1A, 1B and 1C relativities, respectively.

4. Impact on future loss and loss adjustment expense of recent judicial decisions, including, but not limited to the family exclusion in the personal automobile policy and related amendments as adopted in Commissioner's Order Number 95-0345.

5. Review of the actual historical rate of return of the property/casualty insurance industry on both a statutory accounting principles (SAP) and generally accepted accounting principles (GAAP) basis in comparison to prevailing short, medium and long-term interest rates, actual return on investments earned by investors in property/casualty insurance stock companies, actual GAAP return on equity earned by other industries, and actual GAAP return on equity by all industries combined. Provide the available data with any associated calculations and analyses.

6. The relative risk of the property/casualty insurance industry in comparison to other industries and all industries combined as viewed by an investor, as defined as either a purchaser of stock or some other contributor of capital to the insurance enterprise.

7. The impact of the property/casualty insurance industry's debt to equity ratio and liabilities to equity ratio currently and over time on the recommendation for a target rate of return.

8. Review of the actual historical net investment income earned, including interest and dividends earned, and realized and unrealized capital gains, by the property/casualty insurance industry in comparison to prevailing short, medium and long-term interest rates. Provide the available data with any associated calculations and analyses.

9. Review of the historical premium to surplus and reserves to surplus ratios of the property/casualty insurance industry. Provide recommendations with justification for the use of actual premium to surplus leverage ratios in developing a recommended underwriting profit or some other standard. Compare the recommended leverage ratios with those that would result from an allocation of total property/casualty industry surplus by line of insurance based upon the combination of net premiums earned plus mean net reserves. Discuss any additional adjustments necessary for Texas-specific variations in countrywide relationships.

10. Review of historical underwriting profit results for Texas and countrywide in the coverages for which underwriting profit provisions are recommended.

11. Review at least the most current ten years of comprehensive loss experience and provide estimates of catastrophe and non-catastrophe losses. Provide recommendations on methodologies for explicit consideration of catastrophe losses in comprehensive rate indications.

12. Review single limit of liability increased limits factors with consideration of changes in the mix of bodily injury and property damage liability premiums over time. Consider possible differences in these factors by territory or groups of territories.

13. Review the miscellaneous charges not addressed in the 1996 Machine Letter and Rate Bulletin for private passenger and commercial automobile rates to determine if: (i) they should be adjusted and (ii) if small dollar charges should be expressed as dollars and cents.

14. Review the physical damage deductible relativities.

15. Review the appropriate basic limit of coverage to be used in calculating commercial automobile rates.

16. Review the setting of PIP and medical payment rates on a class and territorial basis, as opposed to the size of the bodily injury liability rate.

Motions for Admission as a Party

Anyone who wishes to participate in the hearing as a party must file a motion for admission as a party by 5:00 p.m. on October 16, 1996.

Prehearing Conference

An initial prehearing conference will be held before the ALJ at 10:00 a.m. on October 21, 1996, at SOAH, Suite 502 of the William Clements State Office Building at 300 West 15th Street, Austin, Texas 78701. The prehearing conference will be held for the following purposes:

1. Ruling on all motions for admission of parties.
2. Setting the procedural deadlines for discovery motions, and prefiled testimony.
3. Such other matters as will promote the orderly and prompt conduct of the hearing.

Additional prehearing conferences will be scheduled as the ALJ deems necessary.

Commissioner's Policies

Pursuant to Texas Government Code §2001.058(c), the commissioner is required to provide the ALJ with a written statement of applicable rules and policies. The applicable procedural rules are set out above. The commissioner's policies regarding the setting of benchmark rates under Article 5.101 of the Texas Insurance Code are set out below. The purpose of this policy statement is to provide the ALJ and parties with notice regarding the types of evidence parties should present in the hearing. This policy statement, however, is not intended to limit the type of evidence a party may offer at the hearing. The pertinent commissioner's policies are as follows:

1. It is the commissioner's policy to consider all relevant evidence and issues in making a determination of rates. To assure a complete record, the commissioner requests the ALJ to:

a) take judicial notice of: i) the following data and reports made available by the department to the parties;

PRIVATE PASSENGER DATA

	Description	Source	Diskette or Hard Copy	File Name
1	Trend Data through 4th quarter 1995 (Liability frequency/severity/pure premium/losses/claims separated by voluntary and assigned risk)	ISO	diskette	ppatrend.wk1
2	Trend Data through 4th quarter 1995 (Liability frequency/severity/pure premium/losses/claims separated by voluntary and assigned risk)	NAll	diskette	ppatrend.wk1
3	Written Car Years by Territory - Vol, Assigned, Combined 7/1/94 through 6/30/95 (Liability only)	NAll	hard copy	N/A
4	Physical Damage Data - NAll Only	NAll	diskette	
	a. Written exposure & premiums, paid losses and paid claims - 1995 calendar year			au42wn01.asc au42wn02.asc au42wn03.asc au42wn04.asc au42wn05.asc au42wn06.asc au42wn16.asc
	b. Earned exposure & premiums, paid losses and paid claims - 93, 94, 95 calendar years			au42en01.asc au42en02.asc au42en03.asc au42en04.asc au42en05.asc au42en06.asc au42en16.asc
	c. Special exhibits for \$50, \$100, \$200, \$250, \$500 and \$1,000 deductible collision			au42wn25.asc au42wn26.asc au42wn27.asc au42en25.asc au42en26.asc au42en27.asc
5	1995 B.I. Written Car Year Experience broken down by policy limit	NAll	hard copy	N/A

6	1995 Rate Deviation - Liability and Physical Damage	NAII	diskette	txrdcv95.txt txrdc95l.asc txrdcl95.asc txrdt95l.asc txrdtr95.asc
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7	1994 Annual Aggregate Experience (premium/loss by coverage)	Acxiom	diskette	94aa01.zip 94aa02a.zip 94aa02b.zip 94aa02c.zip 94aa03.zip
8	1995 Annual Aggregate Experience (premium/loss by coverage)	Acxiom	diskette	95aa01.zip 95aa02a.zip 95aa02b.zip 95aa02b.zip 95aa03.zip
9	Annual Statement Compilation	TDI	diskette	95anst.exe
10	Insurance Expense Exhibit	TDI	diskette	95iee.exe
11	Disallowed Expenses Report	TDI	diskette	95der.exe
12	Supplemental Trend Report (loss experience by class/coverage)	Acxiom	diskette	95trnd.xls
13	Premium Tax Report	Comp-troller	hard copy	
14	Supplemental Trend Report 1994-95	Acxiom	diskette	strend.exe
15	Class/coverage Report 1994-95	Acxiom	diskette	cl_covg.xls
16	Discount Report from Special Call	TDI	diskette	discrep.xls
17	TAIPA Take Out Report	TDI	diskette	takeout.xls

COMMERCIAL AUTO DATA

	Description	Source	Diskette or Hard Copy	File Name
1	Trend Data through 3rd quarter 1994	ISO	diskette	cautrend
2	Trend Data through 4th quarter 1995	NAII	diskette	cautrend
3	Liability Data (Trucks, Tractors & Trailers Not Zone Rated) - ISO only	ISO		
	a. Voluntary - Exposures, Premiums, Losses and Claims: BI/PD, PIP & MP by secondary class codes, primary class codes and territory and class group		diskette	isotrcg isocc3 isocc45
	b. Assigned - Exposures, Premiums, Losses and Claims: BI/PD, PIP & MP by class group		hard copy	N/A
	c. Policy Limit Distribution for ISO data only		hard copy	N/A
	d. Company Exclusion List for ISO		hard copy	N/A
	e. Company Inclusion List for ISO		hard copy	N/A
4	Physical Damage Data (Other Than Private Passenger) - NAII only	NAII		
	a. Written exposure and premiums, paid losses and paid claims for 1995 calendar year		diskette	au42wn07.asc au42wn08.asc au42wn09.asc au42wn10.asc au42wn11.asc au42wn12.asc au42wn13.asc au42wn14.asc au42wn15.asc au42wn16.asc
	b. Earned exposure and premiums, paid losses and paid claims for 1993, 1994, and 1995 calendar years		diskette	au42en07.asc au42en08.asc au42en09.asc au42en10.asc au42en11.asc

			au42en12.asc au42en13.asc au42en14.asc au42en15.asc au42en16.asc
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5	Liability Data (Garages, Zone Rated, & Misc. Classifications) - ISO only	ISO		
	a. Voluntary Garages - Exposures, Premium, Losses and Claims: BI/PD and MP by territory and class code		diskette	isoga73
	b. Assigned Risk Garages - Exposures, Prem, Losses and Claims: BI/PD statewide totals		hard copy	N/A
	c. Voluntary Zone Rated - Exp, Prem, Losses and Claims: BI/PD by zone and class code		diskette	isozr4
	d. Assigned Risk Zone Rated - Exp, Prem, Losses and Claims BI/PD statewide totals		hard copy	N/A
	e. Voluntary Misc. - Exposures, Premium, Losses and Claims: BI/PD, PIP and MP by class code		diskette	isomis4
	f. Assigned Risk Misc. - Exposures, Prem, Losses and Claims: Buses, Public, and Misc. statewide totals		hard copy	N/A
	g. Company exclusion lists for ISO		hard copy	N/A
	h. Company inclusion lists for ISO		hard copy	N/A
6	Revisions to 7/31/96 mailing - ISO	ISO		N/A
	a. Two pages that were inadvertently excluded - Assigned Risk for Zone Rated and Garages		hard copy	N/A
	b. Revised company exclusion list for Zone Rated		hard copy	N/A

7	Physical Damage Data (Other Than Private Passenger) - ISO only	NAll		
	a. Written exposure and premiums, paid losses and paid claims for 1995 calendar year		diskette	au42wi07.asc au42wi08.asc au42wi09.asc au42wi10.asc au42wi11.asc au42wi12.asc au42wi13.asc au42wi14.asc au42wi15.asc au42wi16.asc

	b. Earned exposure and premiums, paid losses and paid claims for 1993, 1994, and 1995 calendar years		diskette	au42ei07.asc au42ei08.asc au42ei09.asc au42ei10.asc au42ei11.asc au42ei12.asc au42ei13.asc au42ei14.asc au42ei15.asc au42ei16.asc
8	Physical Damage Data (Other Than Private Passenger) - NAll & ISO comb.	NAll		
	a. Written exposure and premiums, paid losses and paid claims for 1995 calendar year		diskette	au42wm07.asc au42wm08.asc au42wm09.asc au42wm10.asc au42wm11.asc au42wm12.asc au42wm13.asc au42wm14.asc au42wm15.asc au42wm16.asc
	b. Earned exposure and premiums, paid losses and paid claims for 1993, 1994, and 1995 calendar years		diskette	au42em07.asc au42em08.asc au42em09.asc au42em10.asc au42em11.asc

				au42em12.asc au42em13.asc au42em14.asc au42em15.asc au42em16.asc
9	Physical Damage Type of Loss Report - ISO only, Voluntary, Accident Years 1990-95	ISO	diskette	texastol.dta
	a. physical damage coverage codes			
	b. type of loss codes			
	c. company inclusion list			
	d. company exclusion list			

- ii) Rate Reduction Rules, 28 TAC §§5.14000 through 5.14011; and
- iii) Commissioner's Order No. 96-0592 entitled "Private Passenger

and Commercial Automobile Insurance, Benchmark Rate Hearing"
and dated May 29, 1996; and

b) ensure that exhibits accompanying testimony from the parties' witnesses, including their underlying work papers, are submitted and are made available in both paper and electronic format. The electronic format should be 3.5 inch high-density diskette in a DOS or Windows spreadsheet or other format readable by a machine running DOS or Windows. Parameters, assumptions and references to underlying data should be identifiable in the electronic exhibits.

2. It is the commissioner's policy that the promulgated benchmark rate for each affected liability line be determined in conformity with the Rate Reduction rules, 28 TAC §§5.14000 through 5.14011, which are effective for coverages on and after January 1, 1996. In order to correctly apply the rate reduction factor to the benchmark rate, it will be necessary for the commissioner to first determine the benchmark rates without consideration of prospective tort reforms; and second, determine an "adjusted benchmark rate" following the application of the adopted tort reform rate reduction factor. Therefore, the benchmark rate to be promulgated will not take into consideration, at this time, the effects of tort reform, except upon the application of the rate reduction factor, as determined by the Rules.

3. It is the commissioner's policy that the benchmark rate need not equal the actuarial indication for any particular coverage, class and territory. The actuarial indication is an important consideration, but other factors, such as those identified in Article 5.101, may be used if such action better achieves the goal of promoting stability and producing rates that are just, reasonable, adequate, and not excessive for the risks to which they apply, and not confiscatory.

4. It is the commissioner's policy that so-called "Fast Track" data reports not be used directly in the rate development analysis. Trend analysis should rely upon trend data reported to the department and provided by the department to the parties. Fast Track data are not intended for ratemaking and represent only a portion of industry experience.

5. It is the commissioner's policy that if underwriting profit provisions are calculated to reflect a target return on equity measured under GAAP, estimates of future expense ratios, to the extent these estimates are based upon historical expense experience, shall be based upon historical ratios of expenses to written premiums. Alternatively, if estimates of future expenses are based upon historical ratios of expenses to earned premium, then the underwriting profit provision shall be adjusted in consideration of expected increases in prepaid expenses which are recognized as an asset under GAAP.

Conduct of the Hearing

Each page of any exhibit offered in evidence at a hearing before the Commissioner, including prefiled testimony, must be numbered consecutively at the center of the bottom margin, be on 8 1/2" by 11" paper, and must be three-hole-punched along the left margin. The front page of each exhibit should indicate that the exhibit would be part of the record of a public hearing before the Commissioner and should identify the subject of the hearing, the docket number, the date of the hearing, and the party offering the exhibit. On the front page, the party offering the exhibit should also describe the exhibit and leave a space for numbering the exhibit. For example:

Public Hearing before the Commissioner of Insurance

Subject of Hearing: Benchmark Rate for Private Passenger and Commercial Automobile Insurance

Docket No. _____

Date: _____

Exhibit # _____

Description of Exhibit _____

Parties offering exhibits into evidence at the hearing should be prepared with sufficient copies of each proposed exhibit to furnish the following:

1. The original exhibit, which will be tendered to the ALJ for marking and retention for the official record, after which the attorneys shall use an exact photocopy of such marked exhibit in the examination of the witness.

2. One copy each for every other party admitted to the hearing.

All deadlines in this notice are subject to change at the ALJ's discretion to the extent permitted by statute and rule.

In contested cases, all parties are entitled to the assistance of their counsel before administrative agencies. This right may be expressly waived.

Issued in Austin, Texas, on September 16, 1996.

TRD-9613541

Caroline Scott

General Counsel and Chief

Texas Department of Insurance

Filed: September 16, 1996



Notice of Public Hearing for Private Passenger and Commercial Automobile Insurance Rates Concerning The Texas Automobile Insurance Plan Association

Notice is hereby given that a hearing under Docket Number 454-96-1640.G will be held before an administrative law judge (ALJ) of the State Office of Administrative Hearings at 10:00 a.m. on January 7, 1997, and continuing thereafter at dates, times and places designated by the ALJ until conclusion. The purpose of the hearing is consideration of adoption of the manual rates for private passenger and commercial classes of risks provided through the Texas Automobile Insurance Plan Association ("TAIPA"). The hearing will be held at the State Office of Administrative Hearings, Suite 502 of the William Clements State Office Building at 300 West 15th Street, Austin, Texas 78701.

Authority, Jurisdiction and Statutes and Rules Involved

The Commissioner of Insurance has jurisdiction and legal authority over the subject matter of this hearing pursuant to the Insurance Code, Article 21.81 §5. Pursuant to Insurance Code, Article 1.33B(b), the State Office of Administrative Hearing shall conduct the hearing. Statutes involved include Article 21.81, Article 5.131 and subchapter A of Chapter 5 of the Insurance Code.

The procedure of the hearing will be governed by Texas Insurance Code, Article 1.33B, the Rules of Practice and Procedure For Industry-Wide Rate Cases before the Department of Insurance (Texas Administrative Code, Title 28, Chapter 1, Subchapter A), the Memorandum of Understanding between the Department and the State Office of Administrative Hearings (Texas Administrative Code, Title 28, Chapter 1, §1.90) and the Administrative Procedure Act (Texas Government Code, Chapter 2001).

Matter to be Considered

The commissioner will consider testimony presented and information filed by the TAIPA, the Office of Public Insurance Counsel and other interested parties relating to the determination of rates for private passenger and commercial automobile insurance provided through the TAIPA, including the spreading of the rates among relevant classifications and territories. The commissioner has the statutory authority and duty pursuant to the Texas Insurance Code, Article 21.81 §5 to promulgate the rates to be charged for insurance provided through the TAIPA, including private passenger and commercial automobile insurance, after notice and hearing. Relevant data to be used in the rate case will be available from the department.

The commissioner has the statutory authority and duty pursuant to the Texas Insurance Code, Article 21.81 to determine and prescribe rates that are just, reasonable, adequate, not excessive, not confiscatory and not unfairly discriminatory for the risks to which they apply; and to set rates in an amount sufficient to carry all claims to maturity, and to meet the expenses incurred in the writing and servicing of the business.

The commissioner requests evidence on the following additional matters to be determined at the hearing:

1. Pursuant to Article 5.131, the effect of tort reform legislation in determining rates.
2. Impact of changes in the size of the TAIPA plan on rate needs.
3. Impact of recent Supreme Court decisions regarding family exclusions in the personal automobile policy and related amendments to the personal automobile policy adopted by the Commissioner in Order 95-0345.
4. The number and amount of driver training, defensive driving, and passive restraints discounts.
5. The number of drivers who are removed from TAIPA by the mandatory and voluntary take out programs.
6. Evidence on the amount of LAD fees received by one insurance company from another insurance company in return for accepting the first company's TAIPA assignments.
7. The relationship between commercial TAIPA rates and commercial benchmark rates.
8. The setting of PIP and medical payment rates on a class and territorial basis, as opposed to the size of the bodily injury liability rate.

Motions for Admission as a Party

Anyone who wishes to participate in the hearing as a party must file a motion for Admission as a party by 5:00 p.m. November 1, 1996.

Prehearing Conference

An initial prehearing conference will be held before the ALJ at 10:00 a.m. on November 6, 1996, at the State Office of Administrative Hearings, Suite 502 of the William Clements State Office Building at 300 West 15th Street, Austin, Texas 78701. The prehearing conference will be held for the following purposes:

- (1) ruling on all motions for admission of parties;
- (2) setting the procedural deadlines for discovery, motions, and prefiled testimony; and
- (3) such other matters as will promote the orderly and prompt conduct of the hearing;

Additional prehearing conferences will be scheduled as the ALJ deems necessary to rule on other matters as may aid in the simplification of the proceedings.

Commissioner's Policies

Pursuant to Texas Government Code §2001.058(c), the Commissioner is required to provide the administrative law judge with a written statement of applicable rules and policies. The applicable procedural rules are set out above. The Commissioner's policies regarding the setting of rates for insurance provided through the TAIPA are set out below. Evidence regarding alternatives to the Commissioner's policies as set out herein shall be permitted. The purpose of this policy statement is to put the ALJ and parties on notice regarding the commissioner's policies to provide advance notice of the type of evidence parties should present in the hearing. This policy statement, however, is not intended to limit the type of evidence a party may offer at the hearing. The pertinent commissioner's policies are as follows:

1. It is the commissioner's policy to consider all relevant evidence and issues in making a determination of rates. To ensure a complete record, the commissioner requests the ALJ to:
 - (a) take judicial notice of the following data and reports made available by the department to the parties;

PRIVATE PASSENGER DATA

	Description	Source	Diskette or Hard Copy	File Name
1	Trend Data through 4th quarter 1995 (Liability frequency/severity/pure premium/losses/claims separated by voluntary and assigned risk)	ISO	diskette	ppatrend.wk1
2	Trend Data through 4th quarter 1995 (Liability frequency/severity/pure premium/losses/claims separated by voluntary and assigned risk)	NAII	diskette	ppatrend.wk1
3	Written Car Years by Territory - Vol, Assigned, Combined 7/1/94 through 6/30/95 (Liability only)	NAII	hard copy	N/A
4	Physical Damage Data - NAII Only	NAII	diskette	
	a. Written exposure & premiums, paid losses and paid claims - 1995 calendar year			au42wn01.asc au42wn02.asc au42wn03.asc au42wn04.asc au42wn05.asc au42wn06.asc au42wn16.asc
	b. Earned exposure & premiums, paid losses and paid claims - 93, 94, 95 calendar years			au42en01.asc au42en02.asc au42en03.asc au42en04.asc au42en05.asc au42en06.asc au42en16.asc
	c. Special exhibits for \$50, \$100, \$200, \$250, \$500 and \$1,000 deductible collision			au42wn25.asc au42wn26.asc au42wn27.asc au42en25.asc au42en26.asc au42en27.asc
5	1995 B.I. Written Car Year Experience broken down by policy limit	NAII	hard copy	N/A

6	1995 Rate Deviation - Liability and Physical Damage	NAII	diskette	txrdcv95.txt txrdc95l.asc txrdcl95.asc txrdt95l.asc txrdtr95.asc
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7	1994 Annual Aggregate Experience (premium/loss by coverage)	Acxiom	diskette	94aa01.zip 94aa02a.zip 94aa02b.zip 94aa02c.zip 94aa03.zip
8	1995 Annual Aggregate Experience (premium/loss by coverage)	Acxiom	diskette	95aa01.zip 95aa02a.zip 95aa02b.zip 95aa02b.zip 95aa03.zip
9	Annual Statement Compilation	TDI	diskette	95anst.exe
10	Insurance Expense Exhibit	TDI	diskette	95iee.exe
11	Disallowed Expenses Report	TDI	diskette	95der.exe
12	Supplemental Trend Report (loss experience by class/coverage)	Acxiom	diskette	95trnd.xls
13	Premium Tax Report	Comptroller	hard copy	
14	Supplemental Trend Report 1994-95	Acxiom	diskette	strend.exe
15	Class/coverage Report 1994-95	Acxiom	diskette	cl_covg.xls
16	Discount Report from Special Call	TDI	diskette	discrep.xls
17	TAIPA Take Out Report	TDI	diskette	takeout.xls

COMMERCIAL AUTO DATA

	Description	Source	Diskette or Hard Copy	File Name
1	Trend Data through 3rd quarter 1994	ISO	diskette	cautrend
2	Trend Data through 4th quarter 1995	NAII	diskette	cautrend
3	Liability Data (Trucks, Tractors & Trailers Not Zone Rated) - ISO only	ISO		
	a. Voluntary - Exposures, Premiums, Losses and Claims: BI/PD, PIP & MP by secondary class codes, primary class codes and territory and class group		diskette	isotrcg isocc3 isocc45
	b. Assigned - Exposures, Premiums, Losses and Claims: BI/PD, PIP & MP by class group		hard copy	N/A
	c. Policy Limit Distribution for ISO data only		hard copy	N/A
	d. Company Exclusion List for ISO		hard copy	N/A
	e. Company Inclusion List for ISO		hard copy	N/A
4	Physical Damage Data (Other Than Private Passenger) - NAII only	NAII		
	a. Written exposure and premiums, paid losses and paid claims for 1995 calendar year		diskette	au42wn07.asc au42wn08.asc au42wn09.asc au42wn10.asc au42wn11.asc au42wn12.asc au42wn13.asc au42wn14.asc au42wn15.asc au42wn16.asc
	b. Earned exposure and premiums, paid losses and paid claims for 1993, 1994, and 1995 calendar years		diskette	au42en07.asc au42en08.asc au42en09.asc au42en10.asc au42en11.asc

			au42en12.asc au42en13.asc au42en14.asc au42en15.asc au42en16.asc
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5	Liability Data (Garages, Zone Rated, & Misc. Classifications) - ISO only	ISO		
	a. Voluntary Garages - Exposures, Premium, Losses and Claims: BI/PD and MP by territory and class code		diskette	isoga73
	b. Assigned Risk Garages - Exposures, Prem, Losses and Claims: BI/PD statewide totals		hard copy	N/A
	c. Voluntary Zone Rated - Exp, Prem, Losses and Claims: BI/PD by zone and class code		diskette	isozr4
	d. Assigned Risk Zone Rated - Exp, Prem, Losses and Claims BI/PD statewide totals		hard copy	N/A
	e. Voluntary Misc. - Exposures, Premium, Losses and Claims: BI/PD, PIP and MP by class code		diskette	isomis4
	f. Assigned Risk Misc. - Exposures, Prem, Losses and Claims: Buses, Public, and Misc. statewide totals		hard copy	N/A
	g. Company exclusion lists for ISO		hard copy	N/A
	h. Company inclusion lists for ISO		hard copy	N/A
6	Revisions to 7/31/96 mailing - ISO	ISO		N/A
	a. Two pages that were inadvertently excluded - Assigned Risk for Zone Rated and Garages		hard copy	N/A
	b. Revised company exclusion list for Zone Rated		hard copy	N/A

7	Physical Damage Data (Other Than Private Passenger) - ISO only	NAll		
	a. Written exposure and premiums, paid losses and paid claims for 1995 calendar year		diskette	au42wi07.asc au42wi08.asc au42wi09.asc au42wi10.asc au42wi11.asc au42wi12.asc au42wi13.asc au42wi14.asc au42wi15.asc au42wi16.asc

	b. Earned exposure and premiums, paid losses and paid claims for 1993, 1994, and 1995 calendar years		diskette	au42ei07.asc au42ei08.asc au42ei09.asc au42ei10.asc au42ei11.asc au42ei12.asc au42ei13.asc au42ei14.asc au42ei15.asc au42ei16.asc
8	Physical Damage Data (Other Than Private Passenger) - NAll & ISO comb.	NAll		
	a. Written exposure and premiums, paid losses and paid claims for 1995 calendar year		diskette	au42wm07.asc au42wm08.asc au42wm09.asc au42wm10.asc au42wm11.asc au42wm12.asc au42wm13.asc au42wm14.asc au42wm15.asc au42wm16.asc
	b. Earned exposure and premiums, paid losses and paid claims for 1993, 1994, and 1995 calendar years		diskette	au42em07.asc au42em08.asc au42em09.asc au42em10.asc au42em11.asc

				au42em12.asc au42em13.asc au42em14.asc au42em15.asc au42em16.asc
9	Physical Damage Type of Loss Report - ISO only, Voluntary, Accident Years 1990-95	ISO	diskette	texastol.dta
	a. physical damage coverage codes			
	b. type of loss codes			
	c. company inclusion list			
	d. company exclusion list			

(b) take judicial notice of 28 Texas Administrative Code §§5.14000-5.14011 (frequently referred to as the "Rate Reduction Rules") as

adopted by the commissioner and Commissioner's Order Number 96-0591 entitled "In the Matter of Rates for Private Passenger

and Commercial Automobile Insurance Provided Through the Texas Automobile Insurance Plan Association" and dated May 29, 1996;

(c) ensure that exhibits accompanying testimony from the parties' witnesses, including their underlying work papers, are submitted and are made available in both paper and electronic format. The format should be 3.5 inch high density diskette in a DOS or Windows spreadsheet or other format readable by a machine running DOS or Windows. Parameters, assumptions and references to underlying data should be identifiable in the electronic exhibits.

2. It is the commissioner's policy that so-called "Fast Track" data reports not be used directly in the rate development analysis. Trend analysis should rely upon trend data reported to the department and provided by the department to the parties. Fast Track data are not intended for ratemaking and represent only a portion of industry experience.

Conduct of the Hearing

Each page of any exhibit offered in evidence at a hearing before the Commissioner of Insurance, including prefiled testimony, must be numbered consecutively at the center of the bottom margin, be on 8 1/2" by 11" paper, and must be three-hole-punched along the left margin. The front page of each exhibit should indicate that the exhibit would be part of the record of a public hearing before the Commissioner of Insurance and should identify the subject of the hearing, the docket number, the date of the hearing, and the party offering the exhibit. On the front page, the party offering the exhibit should also describe the exhibit and leave a space for numbering the exhibit. For example:

Public Hearing before the Commissioner of Insurance

Subject of Hearing: Texas Automobile Insurance Plan Association Rate Hearing

Docket No. _____

Date: _____

Exhibit # _____

Description of Exhibit _____

Parties offering exhibits into evidence at the hearing should be prepared with sufficient copies of each proposed exhibit to furnish the following:

1. the original exhibit, which will be tendered to the ALJ for marking and retention for the official record, after which the attorneys shall use an exact photocopy of such marked exhibit in the examination of the witness;
2. one copy each for every other party admitted to the hearing.

All deadlines in this notice are subject to change at the ALJ's discretion to the extent permitted by statute and rule.

In contested cases, all parties are entitled to the assistance of their counsel before administrative agencies. This right may be expressly waived.

Issued in Austin, Texas, on September 16, 1996.

TRD-9613540

Caroline Scott

General Counsel and Chief

Texas Department of Insurance

Filed: September 16, 1996

Third Party Administrator

The following third party administrator (TPA) applications have been filed with the Texas Department of Insurance and are under consideration.

Application for admission to Texas of Private Medical-Care, Inc., a foreign third party administrator. The home office is Cerritos, California.

Any objections must be filed within 20 days after this notice was filed with the Secretary of State, addressed to the attention of Charles M. Waits, MC 107-5A, 333 Guadalupe, Austin, Texas 78714-9104.

Issued in Austin, Texas, September 12, 1996

TRD-9613493

Caroline Scott

General Counsel and Chief Clerk

Texas Department of Insurance

Filed: September 13, 1996

Texas Department of Mental Health and Mental Retardation

Notice of Public Hearing

The Texas Department of Mental Health and Mental Retardation will hold a public hearing at 2:00 p.m., Monday, September 30, 1996, in the Central Office Auditorium located at 909 West 45th Street, Austin, Texas. The purpose of this hearing will be to accept oral and written testimony concerning The Long-Term Care Plan for People with Mental Retardation and Related Conditions Fiscal Years 1998-1999 as required in the Texas Health and Safety Code, §533.062. A copy of the plan may be requested from the TDMHMR Office of Strategic Planning, P.O. Box 12668, Austin, Texas 78711 or by calling (512) 206-4569. Individuals requiring an interpreter for the hearing impaired should contact the same number at least 72 hours prior to the hearing.

Issued in Austin, Texas, on September 16, 1996.

TRD-9613533

Ann K. Utley

Chair, Texas MHMR Board

Texas Mental Health and Mental Retardation

Filed: September 16, 1996

Texas Natural Resource Conservation Commission

Notice of Application to Appropriate Public Waters of the State of Texas

The following notices of application for permits to appropriate Public Waters of the State of Texas were issued during the period September 4 through 5, 1996.

KENNETH W. WHITEWOOD and E. MARJANE WHITEWOOD; Application Number 18- 2026A to amend Certificate of Adjudication Number 18-2026 pursuant to §11.122, Texas Water Code, and Texas Natural Resource Conservation Commission Rules 30 TAC §295.1, et seq. Certificate of Adjudication Number 18-2026 authorized owner the right to divert and use not to exceed 125 acre-feet of water per annum from two points on the Guadalupe River, Guadalupe River Basin, at a maximum rate of 1.2 cubic feet per second (525 gallons per minute) to irrigate a maximum of 80 acres of land. The certificate includes a time priority of 1961. Commission records currently indicate four owners of the certificate. Kenneth W. and E. Marjane Whitewood own a portion of the water rights which allows them to divert and use not to exceed 49.916 acre-feet of water per annum from the river to irrigate 31.952 acres out of 53.56 acres of land. Applicants seek to amend Certificate Number 18-2026 to: (1) add an additional 100 acre- feet of water per annum diversion to irrigate a maximum of 44.72 acres out of their 53.56 acre- tract of land; and (2) request authorization to divert at a maximum rate of 0.7 cfs (300 gallons per minute) from the river. Applicants do not seek to change either of the two diversion points. The maximum diversion rate of 525 gallons per minute now included in the certificate would not be exceeded. Applicants have signed a Subordination Agreement with the Blanco River Authority which includes the additional water requested. Letters of consent to this application have been provided by the three other owners of the certificate.

KENNETH W. WHITEWOOD and JANIE WHITEWOOD; Application Number 18-2006C to amend Certificate of Adjudication Number 18-2006, as amended, pursuant to §11.122, Texas Water Code, and Texas Natural Resource Conservation Commission Rules 30 TAC §295.1, et seq. Certificate of Adjudication Number 18-2006, as amended, currently authorizes: (A) diversion and use, from any of three diversion points on the Guadalupe River, Guadalupe River Basin, of not to exceed 470 acre-feet of water per annum to irrigate a maximum of 620 acres of land within three tracts totaling 674 acres in Kerr County, Texas; (B) maintenance of two off- channel dams and reservoirs and impoundment of not to exceed 6 acre-feet and 48 acre-feet of water in Kerr County, Texas, and diversion of water from the river to the ponds for subsequent irrigation; (C) a maximum diversion rate of 4.0 cubic feet per second (1800 gallons per minute); (D) a time priority of 1952 for the diversion of 320 acre-feet of water per annum and September 29, 1989, for the additional 150 acre-feet of water per annum; (E) that in order to protect Guadalupe River instream uses, the additional 150 acre-feet of water per annum could only be diverted when the remaining flow of the Guadalupe River downstream of the most downstream diversion point is at least 25 cubic feet per second; (F) that the amendment is conditioned upon the maintenance of a Subordination Agreement with the Guadalupe-Blanco River Authority; and (G) that in any calendar year, diversion of the 150 acre-feet of water per annum can occur only after all of the 320 acre-foot per annum initial authorization has been diverted. Commission records currently indicate three owners of the certificate, as amended. Kenneth W. and Janie Whitewood own a portion of the water right which allows them to divert and use not to exceed 50 acre-feet of water per annum from the river to irrigate 28.90 acres out of 103.40 acres of land authorized under Certificate Number 18-2006. The water right owned by the Whitewoods has a 1952 priority date. Applicants seek to amend Certificate Number 18-2006, as amended, by: (A) adding an additional 100 acre-feet of water per annum diversion to irrigate a maximum of 76 acres out of the 103.40 acre-tract of land; and (B) requesting authorization to divert at a maximum rate

of 0.7 cfs (300 gallons per minute) from the river. Applicants do not seek to change any of the three diversion points. The combined maximum diversion rate of 1800 gallons per minute would not be exceeded. Applicants have signed a Subordination Agreement with the Authority which includes the additional water requested. Letters of consent to this application have been provided by the two other owners of the certificate.

CHARLES JAMES TESAR; Application Number 5556 for a permit pursuant to §11.121, Texas Water Code, and Texas Natural Resource Conservation Commission Rules 30 TAC §295.1, et seq. for authorization to maintain an existing dam and 12.5 acre-foot on-channel reservoir on the Blanco River, tributary of the San Marcos River, tributary of the Guadalupe River, Guadalupe River Basin, and to divert and use not to exceed 20 acre-feet of water per annum from the reservoir. Diverted water will be used to irrigate 20 acres of land located approximately 14 miles south southeast of Johnson City, Texas.

The Executive Director may approve these applications unless a written hearing request is filed in the Chief Clerk's Office of the TNRCC within 30 days after newspaper publication of the notice of application. To request a hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the applicant and the application number; (3) the statement "I/we request a public hearing;" (4) a brief description of how you would be adversely affected by the granting of the application in a way not common to the general public; and (5) the location of your property relative to the applicant's operations.

If a hearing request is filed, the Executive Director will not approve the application and will forward the application and hearing request to the TNRCC Commissioners for their consideration at a scheduled Commission meeting. If a hearing is held, it will be a legal proceeding similar to civil trials in state district court.

If you wish to appeal a permit issued by the Executive Director, you may do so by filing a written Motion for Reconsideration with the Chief Clerk of the Commission no later than 20 days after the date the Executive Director signs the permit.

Requests for a public hearing or questions concerning procedures must be submitted in writing to the Chief Clerk's Office, MC 105, TNRCC, P.O. Box 13087, Austin, TX 78711-3087, telephone (512) 239-3315.

Issued in Austin, Texas, on September 13, 1996.

TRD-9613475

Gloria A. Vasquez

Chief Clerk

Texas Natural Resource Conservation Commission

Filed: September 13, 1996



Notice of Application for Waste Disposal Permits

Attached are Notices of Applications for waste disposal permits issued during the period of September 9th-September 13, 1996.

The Executive Director will issue these permits unless one or more persons file written protests and/or a request for a hearing within 30 days after newspaper publication of this notice.

If you wish to request a public hearing, you must submit your request in writing. You must state (1) your name, mailing address and daytime phone number; (2) the permit number or other recognizable reference to this application; (3) the statement "I/we request a public hearing;" (4) a brief description of how you, or the persons you represent, would be adversely affected by the granting of the application; (5) a description of the location of your property relative to the applicant's operations; and (6) your proposed adjustment to the application/permit which would satisfy your concerns and cause you to withdraw your request for hearing. If one or more protests and/or requests for hearing are filed, the Executive Director will not issue the permit and will forward the application to the Office of Hearings Examiners where a hearing may be held. In the event a hearing is held, the Office of Hearings Examiners will submit a recommendation to the Commission for final decision. If no protests or requests for hearing are filed, the Executive Director will sign the permit 30 days after newspaper publication of this notice or thereafter. If you wish to appeal a permit issued by the Executive Director, you may do so by filing a written Motion for Reconsideration with the Chief Clerk of the Commission no later than 20 days after the date the Executive Director signs the permit.

Information concerning any aspect of these applications may be obtained by contacting the Texas Natural Resource Conservation Commission, Chief Clerks Office-MC105, P.O. Box 13087, Austin, Texas 78711, Telephone (512) 239-3300.

Listed are the name of the applicant and the city in which the facility is located, type of facility, location of the facility, permit number and type of application-new permit, amendment, or renewal.

BURLINGTON NORTHERN RAILROAD COMPANY, 4200 Deen Road, Fort Worth, Texas 76102, its Amarillo Eastern Fueling Facility, the facility is located north of S.E. 3rd Avenue, approximately 0.25 mile west of Lakeside Drive in the City of Amarillo, Potter County, Texas, renewal, 02376.

DRESSER INDUSTRIES, INC., P.O. Box 210600, Dallas, Texas 75211-0600, a facility which manufactures oil field and mining equipment. the plant site is located at 3400 West Illinois Avenue in the City of Dallas, Dallas County, Texas, renewal, 01474.

ENTERGY GULF STATES, INC., P.O. Box 2951, Beaumont, Texas 77704, the Sabine Generating Plant is approximately one and one-half (1.5) miles south of FM Road 1442 at a point approximately two and one-half (2.5) miles west of the FM Road 1442/State Highway 87 intersection, southwest of the City of Orange, Orange County, Texas, amendment, 00336.

JOHANN HALTERMANN, LTD., 16717 Jacintoport Boulevard, Houston, Texas 77015, a plant recovering saleable products from off-specification petroleum products and solvents by fractional distillation, the plant site is located at 16717 Jacintoport Boulevard on the north side of the Houston Ship Channel approximately 1.6 miles east of the intersection of Sheldon Road and Jacintoport Boulevard near the community of Channelview, Harris County, Texas, 02458.

CITY OF HOUSTON, Department of Public Works and Engineering, P.O. Box 262549, Houston, Texas 77207-2549, the Water Control and Improvement District No. 111 Wastewater Treatment Facility. the plant site is south of the City of Alief and on the south bank of Keegans Bayou approximately 3600 feet west of Keegan Road and 1600 feet north of Belknap Road in Harris County, Texas, renewal, 10495-095.

LA JOYA INDEPENDENT SCHOOL DISTRICT, P.O. Box J, La Joya, Texas 78560, the wastewater treatment facilities and the disposal site will be located approximately 1100 feet west of North La Homa Road (Farm-to-Market Road 2894), approximately 4000 feet south of Farm-to-Market Road 676, and approximately 2 1/2 miles west-southwest of Alton, Texas in Hidalgo County, Texas, new, 13523-003.

CITY OF NEW HOME, P.O. Box 274, New Home, Texas 79383, the wastewater treatment facilities and the disposal site are located approximately 0.25 mile northwest of the intersection of Farm-to-Market Road 1730 and State Highway 211 in Lynn County, Texas, amendment, 10632-01.

PLAINS COOPERATIVE OIL MILL, P.O. Box 841, Lubbock, Texas 79408-0841, a cottonseed crushing facility, the plant site is located at the northwest corner of the intersection of 50th Street and East Loop 289 in the City of Lubbock, Lubbock County, Texas, new, 03907.

SILVERLEAF VACATION CLUB, INC., 1221 Riverbend, Suite 120, Dallas, Texas 75247, the wastewater treatment facilities and the disposal site are located approximately 1,250 feet north of the intersection of State Highway 155 and Farm-to-Market Road 2661 in Smith County, Texas, new, 13849-01.

SMITH CRUSHED STONE, INC., P.O. Box 99, Tehuacana, Texas 76686, a limestone quarry and rock crushing operation, the quarry and rock crushing operations are located at two separate sites. The crushing operation is adjacent to County Road (CR) 228 approximately 1/2 mile north of the intersection of CR 228 and CR 234. The quarry, or mine site, is located immediately south of the intersection of CR 228 and CR 234. This facility is near the City of Tehuacana, Limestone County, Texas, amendment, 03806.

TEXAS PARKS AND WILDLIFE DEPARTMENT, 4200 Smith School Road, Austin, Texas 78744, the wastewater treatment facilities and the disposal site are located approximately 250 feet north of Park Road 4 and 800 feet east of the eastern shore of Inks Lake at a point approximately 7,000 feet south of Texas Highway 29 in Burnet County, Texas, amendment, 11566-01.

Issued in Austin, Texas, on September 13, 1996.

TRD-9613474

Gloria A. Vasquez

Chief Clerk

Texas Natural Resource Conservation Commission

Filed: September 13, 1996

Texas Parks and Wildlife Department

Notice of Closure of Commercial King Mackerel Season

The Texas Parks and Wildlife Department, pursuant to 31 TAC §57.801 and Parks and Wildlife Code, Chapter 79, §79.002, takes the following actions to provide for consistency with federal regulations in the Exclusive Economic Zone.

- 1) The purchase, barter, trade, or sale of king mackerel landed in this state is prohibited; and
- 2) The at-sea transfer of king mackerel caught or possessed in waters of this state is prohibited.

3) The possession of king mackerel in excess of the current recreational bag limit in or on the waters of this state is prohibited.

Prohibition of sale, at-sea transfer, and bag limit restrictions of king mackerel taken in state waters correspond to the regulation implemented by the Gulf of Mexico Fishery Management Council in federal waters. This insures regulatory consistency for enforcement activities and reduces confusion for anglers.

The Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico requires closure of the commercial fishery to protect the overfished king mackerel resource when the commercial quota is reached or projected to be reached. The Gulf of Mexico Fishery Management Council and NMFS requests all Gulf states to close the commercial fishery in, and prohibit sale of king mackerel, from state waters during the closure period.

Federal rule states that during the closure, the daily recreational bag limit of two king mackerel per person applies to catches possessed in or landed from Gulf of Mexico federal waters. The purchase, barter, trade, sale or at-sea transfer of king mackerel caught or possessed in Gulf of Mexico federal waters under bag limits is prohibited.

During the closure, the daily recreational bag limit of two king mackerel per person applies to catches possessed in or landed from Gulf of Mexico federal waters. The purchase, barter, trade, sale or at-sea transfer of king mackerel caught or possessed in Gulf of Mexico federal waters under bag limits is prohibited.

For further information, please call: 1 (800) 792-1112, Ext. 4648 or (512) 389-4648

Issued in Austin, Texas, on September 16, 1996.

TRD-9613537

Bill Harvey, Ph.D.

Regulatory Coordinator

Texas Parks and Wildlife Department

Filed: September 16, 1996

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Public Utility Commission of Texas

Notices of Intent to File Pursuant to Public Utility Commission Substantive Rule 23.27

Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for Aransas County ISD in Rockport, Texas.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for PLEXAR-Custom Service for Aransas County ISD in Rockport, Texas. Pursuant to Public Utility Commission Substantive Rule 23.27. Tariff Control Number 16425.

The Application. Southwestern Bell Telephone Company is requesting approval for a new PLEXAR-Custom service for Aransas County ISD. The geographic service market for this specific service is the Rockport, Texas area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility

Commission Consumer Affairs Division at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on September 13, 1996.

TRD-9613514

Paula Mueller

Secretary of the Commission

Public Utility Commission of Texas

Filed: September 16, 1996

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Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for Alief ISD in Alief, Texas.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for PLEXAR-Custom Service for Alief ISD in Alief, Texas. Pursuant to Public Utility Commission Substantive Rule 23.27. Tariff Control Number 16428.

The Application. Southwestern Bell Telephone Company is requesting approval for a 655 station addition to the existing PLEXAR-Custom service for Alief ISD. The geographic service market for this specific service is the Alief, Texas area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Consumer Affairs Division at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on September 13, 1996.

TRD-9613515

Paula Mueller

Secretary of the Commission

Public Utility Commission of Texas

Filed: September 16, 1996

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Notices of Joint Petition for Extended Area Service

Notice is given to the public of the filing with the Public Utility Commission of Texas of a joint agreement on August 30, 1996, seeking approval of optional Extended Area Service (EAS) from the Chilton exchange to the Waco Metropolitan exchanges pursuant to Public Utility Commission Substantive Rule 23.49(b)(8).

Project Title and Number: Joint Agreement of GTE Southwest, Inc. (GTE) to Provide Extended Area Calling Service (EAS) from the Chilton exchange to the Waco Metropolitan Exchanges; Project Number 16368.

The Joint Agreement: GTE requested approval to offer EAS in the form of optional, one-way, discounted, measured EAS to the Waco Metropolitan exchanges (Community Calling Plan or CCP) to all single-party customers residing within the existing telephone exchange boundary of the Chilton exchange, and optional one-way, flat-rate EAS to the Waco Metropolitan exchanges (Premium Calling Plan or PCP) to all single-party customers residing within the existing telephone exchange boundary of the Chilton exchange. Customers electing to subscribe to the CCP will pay a \$1.00 monthly fee.

Customers electing to subscribe to the PCP will pay a flat-rate monthly additive in addition to basic local exchange charges

GTE's standard service connection charges will apply to all current local exchange access customers placing orders for EAS. However, GTE will waive the standard service connection charge for customers subscribing to the EAS plans during the 90 day period after the EAS in-service date.

The joint applicants have requested that the joint agreement filing be processed administratively pursuant to Public Utility Commission Substantive Rule 23.49(b)(8)(C). Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Commission's Office of Public Information at (512) 458-0388 by November 20, 1996. The telecommunications device for the deaf (TTY) is (512) 458-0221.

Issued in Austin, Texas, on September 13, 1996.

TRD-9613516
Paula Mueller
Secretary of the Commission
Public Utility Commission of Texas
Filed: September 16, 1996

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Notice is given to the public of the filing with the Public Utility Commission of Texas of a joint petition on August 16, 1996, seeking approval of optional Extended Area Service (EAS) from the Boyd, Decatur and Rhome exchanges to the Dallas/Fort Worth Metropolitan exchanges pursuant to Public Utility Commission Substantive Rule 23.49(b)(8).

Project Title and Number: Joint Petition of Central Telephone Company of Texas (Centel) and representatives of Wise County, the Cities of Aurora, Boyd, Decatur, Fairview and Rhome to Provide Extended Area Calling Service (EAS) from the Boyd, Decatur and Rhome exchanges to the Dallas/Fort Worth Metropolitan Exchanges; Project Number 16312.

The Joint Petition: Centel requested approval to offer EAS in the form of optional, unlimited, one-way, toll-free local calling from the Boyd, Decatur and Rhome exchange to the Dallas/Fort Worth exchanges.

Customers are not required to subscribe to EAS. Customers who choose not to subscribe can continue using long-distance service for calls in these exchanges. Customers of EAS will not be required to change their telephone numbers in order to subscribe to this service.

Customers in the Rhome exchange may subscribe to either EAS or EMS or both. A subscriber to both plans who subsequently drops EMS will be charged the without EMS rate.

Service connection charges will be waived for existing customers who subscribe during the first 90 days after the service becomes available. New customers placing orders for EAS at the same time they are ordering local exchange service will not be billed the EAS connection charge; however, all other appropriate tariffed service connection charges will be applicable.

The joint applicants have requested that the joint petition filing be processed administratively pursuant to Public Utility Commission Substantive Rule 23.49(b)(8)(C). Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard,

Suite 400N, Austin, Texas 78757, or call the Commission's Office of Public Information at (512) 458-0388 by November 20, 1996. The telecommunications device for the deaf (TTY) is (512) 458-0221.

Issued in Austin, Texas, on September 13, 1996.

TRD-9613517
Paula Mueller
Secretary of the Commission
Public Utility Commission of Texas
Filed: September 16, 1996

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Notice is given to the public of the filing with the Public Utility Commission of Texas of a joint agreement on August 30, 1996, seeking approval of optional Extended Area Service (EAS) from the Mount Calm exchange to the Waco Metropolitan exchanges pursuant to Public Utility Commission Substantive Rule 23.49(b)(8).

Project Title and Number: Joint Petition of GTE Southwest, Inc. (GTE) to Provide Extended Area Calling Service (EAS) from the Mount Calm exchange to the Waco Metropolitan Exchanges; Project Number 13883.

The Joint Petition and Agreement: GTE requested approval to offer EAS in the form of optional, one-way, discounted, measured EAS to the Waco Metropolitan exchanges (Community Calling Plan or CCP), and optional one-way, flat-rate EAS to the Waco Metropolitan exchanges (Premium Calling Plan or PCP) to all single-party customers residing within the existing telephone exchange boundary of the Mount Calm exchange. Customers electing to subscribe to the CCP will pay a \$1.00 monthly fee.

In addition to the rates described above, GTE's standard service connection charges will apply to all current local exchange access customers placing orders for EAS. However, GTE will waive the standard service connection charge for customers subscribing to the EAS plans during the 90 day period after the EAS in-service date.

The joint applicants have requested that the joint agreement filing be processed administratively pursuant to Public Utility Commission Substantive Rule 23.49(b)(8)(C). Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Commission's Office of Public Information at (512) 458-0388 by November 20, 1996. The telecommunications device for the deaf (TTY) is (512) 458-0221.

Issued in Austin, Texas, on September 13, 1996.

TRD-9613518
Paula Mueller
Secretary of the Commission
Public Utility Commission of Texas
Filed: September 16, 1996

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Notice is given to the public of the filing with the Public Utility Commission of Texas of a joint agreement on August 30, 1996, seeking approval of optional Extended Area Service (EAS) from the Bertram exchange to the Liberty Hill and Austin Metropolitan exchanges pursuant to Public Utility Commission Substantive Rule 23.49(b)(8).

Project Title and Number: Joint Petition of GTE Southwest, Inc. (GTE) to Provide Extended Area Calling Service (EAS) from the Bertram exchange to the Liberty Hill and Austin Metropolitan Exchanges; Project Number 13262.

The Joint Petition and Agreement: GTE requested approval to offer EAS in the form of optional, one-way, discounted, measured EAS to the Liberty Hill and Austin Metropolitan exchanges (Community Calling Plan or CCP) to all single-party customers residing within the existing telephone exchange boundary of the Bertram exchange, and optional one-way, flat-rate EAS to the Liberty Hill and Austin Metropolitan exchanges (Premium Calling Plan or PCP) to all single-party customers residing within the existing telephone exchange boundary of the Bertram exchange. Customers electing to subscribe to the CCP will pay a \$1.00 monthly fee.

GTE's standard service connection charges will apply to all current local exchange access customers placing orders for EAS. However, GTE will waive the standard service connection charge for customers subscribing to the EAS plans during the 90 day period after the EAS in-service date.

The joint applicants have requested that the joint agreement filing be processed administratively pursuant to Public Utility Commission Substantive Rule 23.49(b)(8)(C). Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Commission's Office of Public Information at (512) 458-0388 by November 20, 1996. The telecommunications device for the deaf (TTY) is (512) 458-0221.

Issued in Austin, Texas, on September 13, 1996.

TRD-9613519
Paula Mueller
Secretary of the Commission
Public Utility Commission of Texas
Filed: September 16, 1996

◆ ◆ ◆

Notice is given to the public of the filing with the Public Utility Commission of Texas of a joint agreement on August 30, 1996, seeking approval of optional Extended Area Service (EAS) from the Coupland exchange to the Austin Metropolitan exchanges pursuant to Public Utility Commission Substantive Rule 23.49(b)(8).

Project Title and Number: Joint Petition of GTE Southwest, Inc. (GTE) to Provide Extended Area Calling Service (EAS) from the Coupland exchange to the Austin Metropolitan Exchanges; Project Number 12665.

The Joint Petition and Agreement: GTE requested approval to offer EAS in the form of optional, one-way, discounted, measured EAS to the Austin Metropolitan Exchanges, (Community Calling Plan or CCP) to all single-party customers residing within the existing telephone exchange boundary of the Coupland exchange, and optional one-way, flat-rate EAS to the Austin Metropolitan Exchanges, (Premium Calling Plan or PCP) to all single-party customers residing within the existing telephone exchange boundary of the Coupland exchange. Customers electing to subscribe to the CCP will pay a \$1.00 monthly fee.

GTE's standard service connection charges will apply to all current local exchange access customers placing an order for EAS. However, GTE will waive the standard service connection charge for customers

subscribing to the EAS plans during the 90 day period after the EAS in-service date.

The joint applicants have requested that the joint agreement filing be processed administratively pursuant to Public Utility Commission Substantive Rule 23.49(b)(8)(C). Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Commission's Office of Public Information at (512) 458-0388 by November 20, 1996. The telecommunications device for the deaf (TTY) is (512) 458-0221.

Issued in Austin, Texas, on September 13, 1996.

TRD-9613520
Paula Mueller
Secretary of the Commission
Public Utility Commission of Texas
Filed: September 16, 1996

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Notice is given to the public of the filing with the Public Utility Commission of Texas of a joint petition on August 16, 1996, seeking approval of optional Extended Area Service (EAS) from the Kaufman exchange to the Dallas/Fort Worth Metropolitan area pursuant to Public Utility Commission Substantive Rule 23.49(b)(8).

Project Title and Number: Joint Petition of United Telephone Company of Texas, Inc. (United) and representatives of the Kaufman exchange to Provide Extended Area Calling Service (EAS) from the Kaufman exchange to the Dallas/Fort Worth Metropolitan area; Project Number 16311.

The Joint Petition: United requested approval to offer EAS in the form of optional, unlimited, one-way, toll-free local calling from the Kaufman exchange to the Dallas/Fort Worth exchanges.

Customers are not required to subscribe to EAS. Customers who choose not to subscribe can continue using long-distance service for calls in these exchanges. EAS subscribers will not be required to change their telephone numbers in order to subscribe to this service.

Customers in the Kaufman exchange may subscribe to either EAS or EMS or both. A subscriber to both plans who subsequently drops EMS will be charged the EAS rate for customers with basic local service.

Service connection charges will be waived for existing customers who subscribe during the first 90 days after the service becomes available. New customers placing orders for EAS at the same time they are ordering local exchange service will not be billed the EAS connection charge; however, all other appropriate tariffed service connection charges will be applicable.

The joint applicants have requested that the joint petition filing be processed administratively pursuant to Public Utility Commission Substantive Rule 23.49(b)(8)(C). Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Commission's Office of Public Information at (512) 458-0388 by November 20, 1996. The telecommunications device for the deaf (TTY) is (512) 458-0221.

Issued in Austin, Texas, on September 13, 1996.

TRD-9613521

Paula Mueller
Secretary of the Commission
Public Utility Commission of Texas
Filed: September 16, 1996



Notice of Petition for Rulemaking

The Public Utility Commission of Texas (Commission) has received a petition for rulemaking from Texas Ratepayers' Organization to Save Energy, Inc. and Texas Legal Services Center concerning electric utility legal and regulatory expenses. The petition requests the Commission promulgate a rule to better monitor and control utility legal expenses paid by ratepayers. The petition claims that a legal expenses rule will reduce overall costs to ratepayers by making electric utilities more efficient in the expenditure of ratepayer funds for legal expenses. In addition, the petitioners claim that the rule will improve the efficiency of the regulatory process and provide for a more balanced representation of interests in a wholesale competitive market.

Comments on the petition will be received for three weeks from the date of publication of this notice. Persons interested in obtaining a copy of the petition may do so by contacting the Commission's Central Records Office, 7800 Shoal Creek Boulevard, Austin, Texas 78757. Effective September 30, 1996, the Commission's address will be 1701 North Congress Avenue, Austin, Texas 78701. All inquiries and comments relating to the petition must reference Project Number 16410.

Issued in Austin, Texas, on September 13, 1996.

TRD-9613522
Paula Mueller
Secretary of the Commission
Public Utility Commission of Texas
Filed: September 16, 1996



Research and Oversight Council on Workers' Compensation

Notice of Public Hearing on Proposed Research Agenda

The Research and Oversight Council on Workers' Compensation (ROC) will conduct a public hearing on the proposed ROC Research Agenda for 1997-1998. The public hearing will be held as part of the ROC Board of Directors meeting on Wednesday, September 25, 1996. The Board meeting is scheduled to begin at 10:00 a.m. in the Capitol Extension, 1400 Congress Avenue, Room E1.012, Austin, Texas. For more information on the proposed ROC Research Agenda please contact June Karp, Executive Director, (512) 469-7811.

Issued in Austin, Texas, on September 13, 1996.

TRD-9613433
June L. Karp
Executive Director
Research and Oversight Council on Workers' Compensation
Filed: September 13, 1996



The Texas Department of Transportation

Request for Proposals

Notice of Invitation: The Texas Department of Transportation (TxDOT) intends to engage an engineer, pursuant to Texas Government Code, Chapter 2254, Subchapter A, and 43 TAC §§9.30-9.40, to provide the following services. The engineer selected must perform a minimum of 30% of the actual contract work to qualify for contract award.

Contract Number 04-745P5005: To develop the Plans, Specifications & Estimate (PS&E) package for the construction to reverse the entrance and exit ramps on IH 40 at the Coulter and Soncy intersections located in the city of Amarillo. The providers will be evaluated and selected based on their knowledge and experience in developing PS&E packages.

Deadline: A letter of interest notifying TxDOT of the provider's intent to submit a proposal will be accepted by fax at (806) 356-3263, or hand delivery to TxDOT, Amarillo District Office, Attention: Ron Johnston, 5715 Canyon Drive, Amarillo, Texas, or by mail delivery to P.O. Box 2708, Amarillo, Texas 79105-2708. Letters of interest will be received until 5:00 p.m. on Tuesday, October 1, 1996. The letter of interest must include the engineer's firm name, address, telephone number, fax number, name of engineer's contact person and refer to contract number 04-745P5005. Upon receipt of the letter of interest a Request for Proposal packet will be issued. (Note: Written requests, either by mail/hand delivery or fax, will be required to receive Request for Proposal packet. TxDOT will not issue Request for Proposal packet without receipt of letter of interest.)

Pre-proposal Meeting: A pre-proposal meeting will be held on Friday, October 4, 1996, at the TxDOT, Amarillo District Office, 5715 Canyon Drive, Amarillo, Texas beginning at 2:00 p.m. (TxDOT will not accept a proposal from an engineer who has failed for any reason to attend the mandatory pre-proposal meeting).

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, large print or braille, are requested to contact Ron Johnston, at (806) 356-3253 at least two work days prior to the meeting so that appropriate arrangements can be made.

Proposal Submittal Deadline: Proposals for contract number 04-745P5005 will be accepted until 5:00 p.m. on Friday, October 11, 1996 at the TxDOT, Amarillo District Office mentioned addresses.

Agency Contact: Requests for additional information regarding this notice of invitation should be addressed to Ron Johnston, at (806) 356-3253 or fax (806) 356-3263.

Issued in Austin, Texas, on September 13, 1996.

TRD-9613508
Robert E. Shaddock
General Counsel
Texas Department of Transportation
Filed: September 13, 1996



(Editor's Note: Due to an error by the Texas Register the following Request for Proposal was inadvertently omitted from the September 13, 1996, issue of the Texas Register. The Texas Department of Transportation filed the notice on September 5, 1996.)

Notice of Invitation: The Texas Department of Transportation (TxDOT) intends to engage an engineer, pursuant to Texas Government Code, Chapter 2254, Subchapter A, and 43 TAC §9.30-9.40, to provide the following services. The engineer selected must perform a minimum of 30% of the actual contract work to qualify for contract award.

Contract Number 78-7XXP0001: To conduct several program analysis/training events in the area of Hot Mix Asphaltic Concrete (design, production, construction practices, and acceptance) for several state transportation authorities in Mexico. The engineer will be evaluated for Spanish language proficiency and knowledge of Hot Mix Asphaltic Concrete. This contract will also require travel to Mexico.

Deadline: A letter of interest notifying TxDOT of the provider's intent to submit a proposal will be accepted by fax at (512) 232-1939 or by hand delivery to TxDOT, Materials and Tests Division, Attention: Mr. Maghsoud Tahmoressi, 3800 Jackson Avenue, Building 5, Austin, Texas or by mail delivery to 125 E. 11th Street, Austin, Texas 78701. Letters of interest will be received until 5:00 p.m. on Wednesday, September 25, 1996. The letter of interest must include the engineer's firm name, address, telephone number, fax number, name of engineer's contact person and refer to contract number 78-7XXP0001. Upon receipt of the letter of interest a Request for Proposal packet will be issued. (Note: Written requests, either by mail/hand delivery or fax, will be required to receive Request for Proposal packet. TxDOT will not issue Request for Proposal packet without receipt of letter of interest.)

Preproposal Meeting: A preproposal meeting will be held on Thursday, October 3, 1996, at the TxDOT, Materials and Tests Division, 9605 Saunders Lane, Building 8, Suite 100, Austin, Texas, beginning at 10:00 a.m. (TxDOT will not accept a proposal from an engineer who has failed for any reason to attend the mandatory preproposal meeting).

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or serves such as interpreters for persons who are deaf or hearing impaired, readers, large print or braille, are requested to contact Ms. Joann Lins, at (512) 232-1900 or fax (512) 232-1939 at least two work days prior to the meeting so that appropriate arrangements can be made.

Proposal Submittal Deadline: Proposals for contract number 78-7XXP0001 will be accepted until 5:00 p.m. on Wednesday, October 23, 1996, at the previously mentioned TxDOT, Materials and Tests Division address.

Agency Contact: Requests for additional information regarding this notice of invitation should be addressed to Mr. Maghsoud Tahmoressi at (512) 232-1903 or fax (512) 232-1939.

Contract Number 49-7XXP0001: To evaluate forensic studies of premature concrete deterioration in bridge structures, currently being performed by the Texas Department of Transportation (TxDOT). The provider's investigation team will evaluate concrete samples secured by TxDOT, and provide written reports of all procedures, tests, and conclusions. Therefore, the team must be proficient and experienced in Portland cement petrography and scanning electron microscopy analysis, as well as capable of performing quantitative chemical analysis of cement and concrete. The provider will also provide investigative concrete training to TxDOT personnel by working interactively with them throughout the forensic studies.

Deadline: A letter of interest notifying TxDOT of the provider's intent to submit a proposal will be accepted by fax at (512) 465-7616 or by hand delivery to TxDOT, Materials and Tests Division, Attention: Mr. Joe Roche, 3800 Jackson Avenue, Building 5, Austin, Texas or by mail delivery to 125 E. 11th Street, Austin, Texas 78701. Letters of interest will be received until 5:00 p.m. on Wednesday, September 25, 1996. The letter of interest must include the engineer's firm name, address, telephone number, fax number, name of engineer's contact person and refer to contract number 49-7XXP0001. Upon receipt of the letter of interest a Request for Proposal packet will be issued. (Note: Written requests, either by mail/hand delivery or fax, will be required to receive Request for Proposal packet. TxDOT will not issue Request for Proposal packet without receipt of letter of interest.)

Preproposal Meeting: A preproposal meeting will be held on Tuesday, October 1, 1996, at the TxDOT, Materials and Tests Division, 3800 Jackson Avenue, Building 5, Austin, Texas, beginning at 10:00 a.m. (TxDOT will not accept a proposal from an engineer who has failed for any reason to attend the mandatory preproposal meeting).

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or serves such as interpreters for persons who are deaf or hearing impaired, readers, large print or braille, are requested to contact Mr. Joe Roche, at (512) 465-7625 or fax (512) 465-7616 at least two work days prior to the meeting so that appropriate arrangements can be made.

Proposal Submittal Deadline: Proposals for contract number 49-7XXP0001 will be accepted until 5:00 p.m. on Monday, October 7, 1996, at the previously mentioned TxDOT, Materials and Tests Division address.

Agency Contact: Requests for additional information regarding this notice of invitation should be addressed to Mr. Joe Roche at (512) 465-7625 or fax (512) 465-7616.

Issued in Austin, Texas on September 5, 1996.

TRD-9612968

Robert E. Shaddock

General Counsel

Texas Department of Transportation

Filed: September 5, 1996



The University of Texas System

Consultant Award Notification

The University of Texas Medical Branch at Galveston ("UTMB") is pleased to announce the award of Request for Proposal Number 6-09, Charge Description Master Review, to Prospective Payment Specialist, Inc. ("PPS") pursuant to the provisions of the Government Code, Chapter 2254. This request was originally published in the *Texas Register* on January 16, 1996 (21 TexReg 461).

PPS's principle address is 510 West Sixth Street #515, Los Angeles, California, 90014. The amount of the contract is \$30,000.00. The project is scheduled to begin on July 27, 1996, and will be completed by September 30, 1996.

PPS will be responsible for providing an accurate CDM that will enhance current and future outpatient billing and reimbursement operations for UTMB.

Issued in Austin, Texas, on September 11, 1996.

TRD-9613379

Arthur Dilly

Executive Secretary to the Board of Regents
The University of Texas System

Filed: September 12, 1996

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